AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF VENEZUELA AND THE GOVERNMENT OF THE REPUBLIC OF CHILE ON RECIPROCAL INVESTMENT PROMOTION AND PROTECTION

Preamble

The Republic of Venezuela and the Republic of Chile, hereinafter referred to as "the Contracting Parties";

Desiring to intensify economic cooperation in the mutual benefit of both States;

Intending to create and maintain favourable conditions for investments of investors of one Contracting Party in the territory of the other involving transfers of capital;

Recognizing the need to promote and protect foreign investment with a view to promoting the economic prosperity of both States;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investor" refers to each of the Contracting Parties, the following subjects who has made investments in the territory of the other Contracting Party in accordance with this Agreement:

a) Natural persons who, according to the law of that Contracting Party, are considered to be nationals of the same;

b) Legal entities, including companies, corporations, business associations or any other entity duly constituted or otherwise organised under the law of that Contracting Party and having their seat together with real economic activities, in the territory of that Contracting Party;

c) Legal entities constituted under the law of any country, which are effectively controlled by investors referred to in subparagraphs (a) and (b) above.

2. The term "investment" includes all categories of assets, and in particular:

a) Movable and immovable property as well as any other rights in rem, such as mortgages, liens, pledges and usufructs;

b) Shares and social quotas and any other kind of participation in companies;

c) The appropriations, values and rights derived from any input;

d) copyrights, industrial property rights (such as patents, industrial designs or models, trademarks, service marks, trade names or appellations of origin), know-how, rights of key or prestige and goodwill;

e) The rights acquired under public law, including concessions of exploration, extraction or exploitation of natural resources, as well as any other rights conferred by law, by an administrative decision in accordance with the law.

3. The term "territory includes areas of the exclusive economic zone and the continental shelf where international law authorizes the Contracting Party concerned exercise sovereign rights or jurisdiction in these areas.

Article 2. Scope

This Agreement shall apply to all investments made before or after its Entry into Force in the territory of a Contracting Party in accordance with its laws and regulations by investors of the other Contracting Party. In no case shall not apply to

differences or disputes arising out of events which occurred prior to its Entry into Force.

Article 3. Promotion and Admission

1. Each Contracting Party shall promote in its territory, as far as possible investments by investors of the other Contracting Party and shall admit such investments in accordance with its laws and regulations.

2. The Contracting Party which has admitted an investment in its territory shall, in accordance with its laws and regulations the necessary permits in connection with such an investment, including those that are required for implementing licensing contracts, technical assistance, commercial or administrative activities and of qualified consultants and other persons of foreign nationality.

Article 4. Protection and Treatment

1. Each Contracting Party shall protect within its territory investments made in accordance with its laws and regulations by investors of the other Contracting Party and shall not hinder Discriminatory Measures Arbitrary or by the management, maintenance, use, enjoyment, extension and sale and, if the case. the liquidation of such investments.

2. Each Contracting Party shall in its territory a fair and equitable treatment in accordance with international law to investments of investors of the other Contracting Party. This treatment shall not be less favourable than that accorded by each Contracting Party to investments made within its territory by its own or granted to investors by each Contracting Party to investments made in its territory by investors of the most favoured nation, whichever is more favourable.

3. If a Contracting Party accords special advantages to investors of any third State by virtue of an agreement establishing a free trade area or a customs union, a common market or a similar institution or by virtue of an agreement for the avoidance of double taxation, it shall not be obliged to accord such advantages to investors of the other Contracting Party.

Article 5. Free Transfer

1. Each Contracting Party shall guarantee to investors of the other Contracting Party without delay the transfer in a freely convertible currency of payments in connection with an investment, particularly:

a) The profits, dividends, interests and other income;

b) For repayment of loans;

c) Amounts assigned to cover expenses relating to the management of the investment;

d) Royalties and other payments arising from rights enumerated in Article 1, paragraph (2) of this Agreement;

e) The provision of additional capital for the maintenance or development of the investments;

f) The proceeds of the sale of or the partial or total liquidation of the capital investment, including possible;

g) The compensation referred to in Article 6.

2. If any formalities for transfers, they shall be deemed to have been made without delay if effected within the period normally necessary for the implementation of these formalities. the term, which shall in no case exceed two months, shall commence at the time of delivery of the request duly submitted.

Article 6. Expropriation and Compensation

1. Neither Contracting Party shall take any steps to expropriate or nationalize investments of investors of the other Contracting Party or take measures having an effect equivalent to nationalization or expropriation, unless the measures are not discriminatory, according to the law and giving rise to payment of adequate and effective compensation. the amount of compensation shall include interest, where appropriate, shall be effected in a freely convertible currency and paid without delay to the beneficiary. the legality of the measure tantamount to expropriation or nationalization, and the amount of compensation shall be verifiable in ordinary judicial procedure.

2. Investors of one Contracting Party who are losses in connection with their investments in the territory of the other Contracting Party owing to war or other armed conflict, revolution, state of national emergency, revolt, riot or insurrection shall be public, the latter Contracting Party treatment not less favourable, with respect to restitution, compensation or other

settlement, that which that Contracting Party agrees to its own nationals to investors or of any third State, whichever is more favourable to the investors concerned.

Article 7. Subrogation

If a Contracting Party has decided to any form of financial guarantee cover non-commercial risks with regard to an investment by one of its investors in the territory of the other Contracting Party, the latter shall recognize the subrogation of the first Contracting Party into the rights of the investor, provided that the first Contracting Party has made a payment under such security.

Article 8. Disputes between a Contracting Party and an Investor of the other Contracting Party

1. In the event of a dispute between a Contracting Party and an investor of the other Contracting Party in connection with an investment in the area of this Agreement, the investor and the Contracting Party concerned shall enter into consultations with a view to reaching an amicable settlement.

2. If an amicable settlement, the investor may submit the dispute to the national jurisdiction of the Contracting Party in whose territory the investment is made or to international arbitration. in the latter case the dispute shall be submitted to the International Centre for Settlement of Investment Disputes (ICSID) established by the Washington Convention of 18 March 1965 on the Settlement of Investment Disputes between States and Nationals of Other States.

3. Once the investor has submitted the dispute to the competent court of the Contracting Party in whose territory the investment has been made or to international arbitration, the choice of one or other form shall be final.

4. The Contracting Parties agree to refer to international arbitration, referred to in paragraph 2 above, investment disputes covered by this Agreement.

5. The Contracting Party involved in the dispute shall not at any stage of the proceeding as a defence assert the fact that the investor has received by virtue of an insurance contract total or partial compensation for the loss or damage sustained.

6. Neither Contracting Party shall pursue the solution through diplomatic channels a dispute submitted to international arbitration unless the other Contracting Party fails to observe and comply with the award of the arbitral tribunal.

7. The arbitral tribunal shall decide on the basis of the provisions of this Agreement and other relevant agreements between the Contracting Parties, the terms of any specific agreement concluded in relation to the investment of the Law of the Contracting Party which is a party to the dispute including its rules on the Conflict of Laws, as the principles and rules of international law as may be applicable.

8. The arbitral award shall be limited to determine whether there is a breach by a Contracting Party of its obligations under this Agreement if such non-compliance has caused injury to the investor concerned and, if so, the amount of the compensation.

Article 9. Disputes between Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of the provisions of this Agreement shall be settled through diplomatic channels.

2. If the Contracting Parties cannot reach an agreement within twelve months after the beginning of the dispute shall be submitted, at the request of either party to an arbitral tribunal composed of three members. each Contracting Party shall appoint one arbitrator and the two arbitrators thus appointed shall appoint the Chairman of the Tribunal who shall be a national of a third State.

3. If one of the Contracting Parties has not appointed its arbitrator and in response to the invitation of the other Contracting Party to make that appointment within two months, the arbitrator shall be appointed upon the request of the latter Contracting Party by the President of the International Court of Justice.

4. If the two arbitrators cannot reach an agreement about the choice of the Chairman within two months after their appointment, the latter shall be designated at the request of either Contracting Party by the President of the International Court of Justice.

5. If in the cases specified under paragraphs (3) and (4) of this article, the President of the International Court of Justice is

prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President and if the latter is prevented or if he is a national of either Contracting Party, the appointment shall be made by the judge of the Court of greater seniority who is not a national of either of the Contracting Parties.

6. Unless the parties agree otherwise, the tribunal shall determine its own procedure. in addition, each Contracting Party shall bear the costs of its own arbitrator and its representation in the arbitral proceedings. the cost of the Chairman and the remaining costs shall be borne equally by the Contracting Parties unless agreed otherwise.

7. The decisions of the Tribunal are final and binding on the Contracting Parties.

Article 10. Final Provisions

1. This Agreement shall enter into force on the day on which both States have notified that have complied with the constitutional requirements necessary for the adoption and entry into force of international agreements. for a period of ten years and thereafter shall be extended for an indefinite period. ten years, the Agreement may be terminated by either Contracting Party at any time with a notice of twelve months.

2. In case of official notice of termination of this Agreement, the provisions of articles 1 to 10 shall continue to apply for a period of fifteen years for the investments made before official notice.

3. This Agreement shall apply irrespective of the existence of diplomatic or consular relations between the Contracting Parties.

Signed at Santiago, Chile, this second day of April, nineteen hundred and ninety-three, in two copies in the Spanish language, both texts being equally authentic.

For the Government of the of the Republic of Venezuela

Fernando Ochoa Antich

Minister of Foreign Affairs

For the Government of the Republic of Chile

Enrique Silva Cimma

Minister of Foreign Affairs

Ambassador Miguel Rodríguez Mendoza

President of the Institute of Foreign Trade

Jorge Marshall Rivera

Minister of Economy, Development and Reconstruction