Agreement Between the Government of the French Republic and the Government of the Republic of Senegal on the reciprocal promotion and protection of investments

The Government of the French Republic and the Government of the Republic of Senegal hereinafter referred to as "the Contracting Parties",

Desiring to strengthen economic cooperation between the two States and to create favourable conditions for French investment in Senegal and Senegalese investment in France,

Convinced that the encouragement and protection of such investments are likely to stimulate the transfer of capital and technology between the two countries, in the interest of their economic development,

Have agreed on the following provisions:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" means all assets, such as property rights and interests of all kinds, and particularly but not limited to:

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

b) Shares, stocks and other forms of participation, even indirect minority, or to companies established in the territory of one of the Contracting Parties;

c) Obligations and rights, claims to any performance having economic value;

d) Intellectual property rights, commercial and industrial such as copyrights, patents, licences, trademarks, industrial designs or models, technical processes, trade names, know-how and goodwill;

e) Concessions granted by law or under contract, including concessions to search for, culture, extract or exploit natural resources including those of the maritime area situated in the Contracting Parties.

It is understood that such assets must be or have been invested in accordance with the law of the Contracting Party in the territory or maritime area in which the investment is made before or after the entry into force of this Agreement.

Any alteration of the form in which assets are invested shall not affect their classification as investment, provided that such change is not contrary to the legislation of the contracting parsie in the territory or maritime area in which the investment is made.

2. The term "investor means:

a) Nationals, i.e. natural persons having the nationality of one of the Contracting Parties;

b) Any juridical person in the territory of one of the Contracting Parties in accordance with its law and having its registered office.

Are treated as legal persons within the meaning of this article, companies on the one hand, and non-profit organizations with legal personality.

3. The term means all amounts yielded returns by an investment interests, such as profits, royalties or during a period of time.

Investment income and in case of reinvestment, income from their reinvestment shall enjoy the same protection as the investment.

4. This Agreement shall apply:

For the French Republic: in its territory as well as its maritime area, hereinafter referred to as defined as the economic zone and the continental shelf extending beyond its territorial waters and on which it has, in accordance with international law, sovereign rights and jurisdiction for the purpose of exploitation and exploration for and preservation of natural resources.

For the Republic of Senegal:

a) All the territories and islands, in accordance with the laws of the Republic of Senegal, constitute the Government of Senegal;

b) The territorial waters;

c) Any area beyond the territorial sea which in accordance with international law, is or will be defined by the legislation of the Republic of Senegal as a zone and continental shelf included, which may be exercised the rights of Senegal regarding the sea and seabed, and their natural ressources.

5. Nothing in this Agreement shall be construed so as to prevent a Contracting Party from taking any measure for investors and investments made by the conditions governing the activities of investors, within the framework of measures to preserve and promote cultural and linguistic diversity, in accordance with the Convention on the Protection and Promotion of the Diversity of Cultural Expressions of UNESCO.

Article 2. Scope of the Agreement

For the purposes of this Agreement, it is understood that the Contracting Parties shall be responsible for the actions or omissions of their public authorities and their federated states, in particular regions, local authorities or other entity over which the Contracting Party exercises guardianship, representation or responsibility for its international relations or its sovereignty.

This Agreement shall not apply to matters falling within the scope of the bilateral tax convention signed between the Contracting Parties on 29 March 1974 and any agreement after it.

This agreement covers all investments made before or after its entry into force. it does not cover disputes arising before its entry into force. however, the parties to the dispute shall endeavour to implement its provisions.

Article 3. Encouragement and Admission of Investments

Each Contracting Party shall promote and admit, within the framework of its laws and the provisions of this Agreement, the investments of investors of the other party in its territory and in the maritime area.

Article 4. Fair and Equitable Treatment

Each Contracting Party undertakes to provide, in its territory and in the maritime area, fair and equitable treatment in accordance with the principles of international law, to investments of investors of the other party and to ensure the enjoyment of the right thus recognized is hampered in either law or in fact.

In particular, though not exclusively, shall be regarded as barriers of fact or law in fair and equitable treatment, any restriction to purchase and transport of raw materials and auxiliary materials, energy and fuel and means of production or operation of any kind, interference with the sale and transport of goods within the country and abroad, as well as any other measures having a similar effect.

The Contracting Parties shall facilitate within the framework of their national legislation, applications for entry and residence permits, and movement of nationals of one Contracting Party in respect of an investment in the territory or maritime zones of the other Contracting Party.

Article 5. National Treatment and Most-favoured-nation Treatment

Each Contracting Party shall, in its territory and in the maritime area, to investors of the other Contracting Party as regards their investments and activities associated with such investments, treatment no less favourable than that accorded to its

investors or the treatment accorded to investors of the most favoured nation, whichever is more favourable.

In this connection, nationals who are authorised to work in the Territory and in the maritime area of either Contracting Party shall enjoy adequate physical facilities for the performance of their professional activities.

This treatment does not extend to the privileges which either Contracting Party accords to investors of a third State by virtue of its association or participation in a free trade area, customs union, Common Market or any other form of regional economic organization.

The principles referred to in this Article shall not apply with respect to the special advantages to development finance institutions.

Article 6. Expropriation

1. Investments made by investors of either Contracting Party shall enjoy, in the Territory and in the maritime zones of the other Contracting Party; protection and security.

2. The Contracting Parties shall not take any measures of expropriation or nationalization or any other measures, the effect of which is to dispossess, directly or indirectly, an investor of the other party; investments in its territory and in the maritime area, except for a public purpose and provided that they are neither discriminatory nor contrary to a specific engagement.

All dispossession measures that might be taken shall be subject to the payment of prompt and adequate compensation in an amount equal to the real value of the investment concerned must be assessed in relation to a normal economic situation and prior to any threat of dispossession.

Such compensation, its amount and has no later than the date of dispossession. the compensation shall be paid without delay, and effectively realisable freely transferable. it produces until the date of payment, shall include interest at the market rate of interest.

3. Investors of one Contracting Party whose investments have suffered losses due to a war or any other armed conflict, revolution, state of emergency or national revolt occurring in the territory or maritime zones of the other Contracting Party benefit, on the part of this latter, from a treatment no less favourable than that accorded to its own investors or to those of the most favoured nation.

Article 7. Free Transfer

Each Contracting Party in the territory or maritime area in which the investments were made by investors of the other Contracting Party shall grant those investors the free transfer of:

a) Profits, dividends, interests and other current income;

b) Royalties arising out of intangible rights referred to in paragraph 1, subparagraphs (d) and (e) of article 1;

c) Payments made for the reimbursement of loans contracted regularly;

d) The proceeds of the sale of or the partial or total liquidation of the investment, including the value of the investment capital;

e) Compensation for loss or dispossession provided for in article 6, paragraphs 2 and 3 above.

The nationals of either Contracting Party who have been authorised to work in the territory or maritime zones of the other Contracting Party in respect of an approved investment shall also be authorised to transfer their country of origin in a proportion appropriate remuneration.

The transfers referred to in the preceding paragraphs shall be effected without delay formally at the normal rate of exchange applicable on the date of transfer.

If, in exceptional circumstances, the movement of capital to or from third countries cause or threaten to cause a serious imbalance in the balance of payments, each Contracting Party may apply temporarily safeguard measures with regard to transfer, provided that such measures are strictly necessary, applied on an equitable, non-discriminatory basis and in good faith and that they shall not exceed a period of six months.

The provisions of the preceding paragraphs of this article does not preclude the exercise of good faith, by a Contracting Party of its international obligations as well as its rights and obligations by virtue of its association or participation in a free

trade area, customs union, Common Market, an Economic and Monetary Union or any other form of regional cooperation or integration.

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

Any investment dispute between a Contracting Party and an investor of the other Contracting Party shall be settled amicably between the two parties concerned.

If such a dispute cannot be settled within six months from the date on which an amicable settlement was requested by either party to the dispute, it shall be submitted at the request of the investor to arbitration concerned:

a) An ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission on United Nations Commission on International Trade Law (UNCITRAL); or

b) The International Centre for Settlement of Investment Disputes (ICSID), established by the Convention on the Settlement of Investment Disputes between States and Nationals of Other States done at Washington on 18 March 1965; or

c) The Common Court of Justice and arbitration established by the Treaty of the Organization for the Harmonization of Business Law of 17 October 1993 in Africa (OHADA), where the parties to the disputes under this Treaty.

Where the dispute is likely to give rise to responsibility for the actions or omissions of public authorities or agencies dependent by one of the two Contracting Parties, within the meaning of article 2 of the present Agreement, such public body or agency shall unconditionally give consent to resort to arbitration by the International Centre for Settlement of Investment Disputes (ICSID), within the meaning of article 25 of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States done at Washington on 18 March 1965.

Article 9. Guarantee and Subrogation

1. If the legislation of either Contracting Party provides a guarantee for investments abroad, it may be granted within the framework of a case-by-case examination, to investments made by investors of that Party in the territory or maritime zones of the other party.

2. Investments of investors of one Contracting Party in the territory or in the maritime area of the other party may request the Security referred to in the preceding paragraph only if they have previously obtained the authorisation of the latter party.

3. If one of the Contracting Parties, by virtue of a guarantee given in respect of an investment in the territory or maritime zones of the other party makes payment to one of its investors it is thereby entered into the rights and claims of the investor.

4. Such payments shall not affect the rights of the holder of the security to the resort to ICSID or Further actions brought before the Tribunal until the completion of the procedures.

Article 10. Specific Commitments

Investments in respect of a particular undertaking of either Contracting Party to investors of the other Contracting Party shall be governed, without prejudice to the provisions of this Agreement, the terms of that commitment to the extent that it is more favourable provisions than those laid down in this Agreement. the provisions of article 8 of this Agreement shall apply even where the waiver specific commitment to international arbitration or designating an arbitral tribunal different from that referred to in article 8 of this Agreement.

Article 11. Dispute Settlement

1. Disputes concerning the interpretation or application of this agreement should, if possible, be settled through diplomatic channels.

2. If within six months from the time at which it was raised by either Contracting Party, the dispute is not settled, it shall be submitted, at the request of either contracting party to an arbitral tribunal.

3. The Tribunal shall be constituted for each individual case as follows: each Contracting Party shall appoint a member within two months, and the two members thus appointed shall designate by common agreement, a national of a third State who shall be appointed Chairman of the Tribunal by the two Contracting Parties within two months from the date of

appointment of the last of the two members.

4. If the periods specified in paragraph 3 above have not been made, either Contracting Party, in the absence of any other agreement, invite the Secretary-General of the United Nations to make the necessary appointments. if the Secretary-General is a national of either Contracting Party or if he is otherwise prevented from exercising this function, the Under-Secretary-General the oldest and who is not a national of either Contracting Party shall make the necessary appointments.

5. The arbitral tribunal shall reach its decisions by a majority of votes. such decisions shall be final and enforceable automatically to the Contracting Parties.

The tribunal shall determine its own rules of interpretation award at the request of either Contracting Party.

Each Contracting Party shall bear the cost of the arbitrator it has appointed and half the costs of the Chairman of the Tribunal and of the administrative costs of the arbitral proceedings.

Article 12. Prohibitions and Restrictions

The Contracting Parties may, when formulating or amending their laws and regulations, adopt measures necessary to protect the environment, provided that such measures do not impair the application of the provisions of this Agreement.

Article 13. Entry Into Force and Duration

Each Party shall notify the other of the completion of the internal procedures required for the entry into force of this Agreement, which shall take effect one month after the date of receipt of the last notification.

This agreement is concluded for an initial period of ten years. it shall remain in force after the term unless one of the Parties denounces through diplomatic channels with one year notice.

On expiry of the period of validity of the present Agreement investments over which it was in force will continue to benefit from the protection of its provisions for a further period of twenty years.

In WITNESS WHEREOF the undersigned, duly authorized thereto by representatives, their respective Governments, have signed this Agreement.

Signed in Dakar, Senegal, on 26 July 2007 in two originals in the English language.$

For the Government of the French Republic :

Jean-Marie Bockel

Secretary of State to to the Minister of Foreign Affairs, in charge of Cooperation and Francophony

For the Government of the Republic of Senegal :

Cheikh Tidiane Gadio

Minister of State, Minister of Foreign Affairs