AGREEMENT ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS BETWEEN THE KINGDOM OF SPAIN AND THE ISLAMIC REPUBLIC OF IRAN

The Government of the Kingdom of Spain and the Government of the Islamic Republic of Iran hereinafter referred to as the "Contracting Parties" ,

Desiring to intensify economic cooperation to the mutual benefit of both countries;

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

Recognizing that the promotion and protection of investments under this Agreement will stimulate the flow of investments between the two countries ;

Have agreed as follows :

Article 1. Definitions

For the purpose of this Agreement :

1 . The term "investment" refers to every kind of asset invested by the investors of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the other Contracting Party, including the following:

(a) Movable and immovable property as well as rights related thereto such as leases, mortgages, liens, pledges and usufructs;

(b) Shares in and stock and debentures of a company or any other form of participation in a company or business enterprise;

(c) Title to money or to any performance associated with an investment and having economic value;

(d) Intellectual property rights; technical processes, know-how and goodwill;

(e) Any rights having an economic value including rights to search for, extract, or exploit natural resources.

Any change in the form in which assets are invested or reinvested does not affect their character as investments if such a change has been made in accordance with the laws and regulations of the host Contracting Party and with the approval of the competent authority of the host Contracting Party, if required.

2 . The term "investors", with respect to either Contracting Party, refers to the following persons who invest in the territory of the other Contracting Party:

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

(b) Legal entities, including companies, corporations and other organizations, which are established under the law of that Contracting Party and have their seat, together with real economic activities, in the territory of that same Contracting Party.

3 . The term "returns" refers to the amounts yielded by an investment including, in particular although not exclusively, profit, dividends, interest, capital gains, royalties and fees.

4 . The term "territory" shall mean the territory under the sovereignty of either Contracting Party including the territorial sea and includes maritime areas over which either Contracting Party exercises sovereign rights or jurisdiction in accordance with international law.

Article 2. Promotion and Admission of Investments

1 . Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory.

2 . Each Contracting Party shall admit in its territory investments of investors of the other Contracting Party in accordance with its laws and regulations.

3 . When an investment is admitted, each Contracting Party shall, in accordance with its laws and regulations, grant all necessary permits for the realization and the development of such an investment.

Article 3. Protection and Treatment of Investments

1 . Investments made by investors of one Contracting Party in the territory of the other Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security.

2 . Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal of such investments.

3 . Each Contracting Party shall in its territory accord to investments made by investors of the other Contracting Party treatment no less favourable than that which it accords to the investments made by its own investors or by investors of any third State whichever is more favourable to the investor concerned.

4 . Each Contracting Party shall accord in its territory to investors of the other Contracting Party, as regards their management, maintenance, use, enjoyment or disposal of their investment, treatment no less favourable than that which it accords to its own investors or to investors of any third State whichever is more favourable to the investor concerned.

5 . The treatment granted under paragraphs 3 and 4 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party and their investments the benefit of any treatment, preference or privilege resulting from its membership of, or association with, any existing or future free trade area, customs union, common market, economic union, monetary union or any other similar regional organization.

Article 4. Expropriation

1 . Investments of investors of either Contracting Party in the territory of the other Contracting Party shall not be nationalized, confiscated, expropriated or subjected to measures having an equivalent effect (hereinafter referred to as "expropriation") by the other Contracting Party except if such measures are taken for public purposes, in accordance with due process of law and in a non discriminatory manner and against the payment of prompt, appropriate and effective compensation.

2 . The amount of compensation shall be equivalent to the fair market value of the investment immediately before the expropriation has been taken, announced or made public, whichever is earlier.

Compensation shall be calculated in a convertible currency at the prevailing exchange rate applicable immediately before the expropriation has been taken, announced or made public, whichever is earlier.

3 . The expropriating Contracting Party will be under a commitment to pay compensation without undue delay. In case of undue delay the financial costs related to the delayed payment shall be borne by the expropriating Contracting Party from the day on which the payment becomes due till the date of actual payment. Such financial costs shall be calculated in accordance with international banking practice. Compensation shall be effectively realizable.

4 . The investor affected shall have the right, under the law of the Contracting Party making the expropriation, to prompt review by a judicial authority or other competent and independent authority of that Contracting Party of its case, including the valuation of its investment and the payment of compensation, in accordance with the principles set out in this Article.

Article 5. Treatment for Damages or Losses

1 . Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, state of national emergency , revolution, insurrection, civil disturbance or any other similar event, shall be accorded by the latter Contracting Party, as regards restitution , indemnification, compensation or other arrangements, treatment no less favourable than that which the latter Contracting Party accords to its own investors or to

investors of any third State whichever is more favourable to the investors concerned.

2 . Notwithstanding paragraph 1, an investor of one Contracting Party who, in any of the situations referred to in that paragraph, suffers a loss in the territory of the other Contracting Party resulting from:

a) Requisitioning of its investment or part thereof by the latter's forces or authorities; or

b) Destruction of its investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation,

Shall be accorded by the latter Contracting Party restitution or compensation which in either case shall be prompt, appropriate and effective and paid without undue delay.

Article 6. Transfer

1 . Each Contracting Party shall permit in good faith transfers related to investments referred to in this Agreement, to be made freely and without delay. Such transfers include :

(a) Returns, as defined in Article 1;

(b) Funds in repayment of loans related to an investment;

(c) Compensations provided for under Articles 4 and 5;

(d) Proceeds from the total or partial sale or liquidation of an investment ;

(e) Earnings and other remuneration of personnel engaged from abroad in connection with an investment who have obtained in the territory of the host Contracting Party the corresponding work permits related to that investments;

(f) Payments arising out of the settlement of a dispute under Article 11.

2 . Transfers under the present Agreement shall be made without delay in a freely convertible currency at the applicable rate of exchange prevailing on the date of transfer.

3 . The investor and the host Contracting Party may agree otherwise on the mechanism of repatriation or transfer referred to in this Article.

4 . Notwithstanding paragraphs(1) to (3), a Contracting Party may prevent a transfer through the equitable, non-discriminatory and good faith application of measures to protect the rights of creditors, or relating to or ensuring compliance with laws and regulations on the requirements for transfers or in connection with criminal offenses, orders or judgments in administrative and adjudicatory proceedings, provided that such measures and their application shall not be used as a means of avoiding the Contracting Party's commitments or obligations under this Agreement.

Article 7. Other Provisions

Notwithstanding the terms set forth in this Agreement, more favourable provision which have been or may be agreed upon by either of the Contracting Parties with an investor of the other Contracting Party are applicable.

Article 8. Subrogation

If one Contracting Party or its designated Agency makes a payment to its investor under an insurance or guarantee it has contracted with respect to an investment in the territory of the other Contracting Party against non-commercial risks, the latter Contracting Party shall recognize the subrogation of the former Contracting Party or its designated Agency to all the rights and claims of the investor and that the former Contracting Party or its designated Agency is entitled to exercise such rights and enforce such claims to the same extent.

Article 9. Observance of Commitments

Each Contracting Party shall observe any obligation it may have entered into with regard to investments of investors of the other Contracting Party which is in accordance with the internal existing laws and regulations.

Article 10. Scope of Application

1 . This Agreement shall be applicable to investments made before or after its entry into force by investors of either Contracting Party in the territory of the other Contracting Party once they have been approved by the competent authority of the host Contracting Party, if so required, and/or admitted in accordance with its laws and regulations. However this Agreement shall not apply to the disputes which have been raised before the entry into force of this Agreement. The competent authority in the Islamic Republic of Iran is the Organization for Investment, Economic and Technical Assistance of Iran (OIETAI) or the authority which may succeed it.

2 . The treatment granted under this Agreement shall not apply to tax matters.

Article 11. Disputes between One Contracting Party and Investors of the other Contracting Party

1 . Disputes that may arise between one Contracting Party and an investor of the other Contracting Party with regard to an investment within the framework of the present Agreement , shall be notified in writing, including a detailed information, by the investor to the former Contracting Party. As far as possible, the parties concerned shall endeavour to settle these disputes amicably.

2 . If these disputes cannot be settled amicably within six months from the date of the written notification mentioned in paragraph 1, the dispute may be submitted, at the choice of the investor to:paragraph 1, the dispute may be submitted, at the choice of the investor to:

— the competent court of the Contracting Party in whose territory the investment has been made ; or

— an ad hoc tribunal of arbitration established under the Arbitration Rules of the United Nations Commission on International Trade Law, or

— the International Center for Settlement of Investment Disputes (ICSID) set up by the "Convention on Settlement of Investment Disputes between States and Nationals of other States", opened for signature at Washington on 18th March 1965, in case both Contracting Parties become members of this Convention.

— the International Chamber of Commerce under its rules of arbitration.

3 .The arbitration decisions shall be final and binding on the parties to the dispute. Each Contracting Party undertakes to execute the decisions in accordance with its national law.

Article 12. Settlement of Disputes between the Contracting Parties

1 . Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled through diplomatic channels.

2 . If it is not possible to settle the dispute in this way within six months from the start of the negotiations, it shall be submitted, at the request of either of the two Contracting Parties, to an arbitral tribunal.

3 . The arbitral tribunal shall be set up in the following way: each Contracting Party shall appoint one arbitrator and these two arbitrators shall elect a national of a third country as Chairman. The arbitrators shall be appointed within three months and the Chairman within five months from the date on which either of the two Contracting Parties informs the other Contracting Party of its intention to submit the dispute to an arbitral tribunal.

4 . If within the periods specified in paragraph 3 of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he too is prevented from discharging the said function , the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments. However the Chairman shall be appointed amongst nationals of a State having diplomatic relations with both Contracting Parties at the time of appointment.

5 . Unless the Contracting Parties decide otherwise, the arbitral tribunal shall lay down its own procedure.

6 . The arbitral tribunal shall reach its decision by a majority of votes and that decision shall be final and binding on both Contracting Parties.

7 . Each Contracting Party shall bear the expenses of its own arbitrator and those connected with representing it in the

arbitration proceedings. The other expenses, including those of the Chairman, shall be borne in equal parts by the two Contracting Parties.

Article 13. Entry Into Force, Duration and Termination

1 . This Agreement shall enter into force on the date on which the Contracting Parties shall have notified each other that their respective constitutional formalities required for the entry into force of international agreements have been completed. It shall remain in force for an initial period of ten years and thereafter unless one of the Contracting Parties notifies the other Contracting Party in writting of its intention to terminate it. The termination shall come into effect after six months from the date of reception of the notification.

2 . With respect to investments made prior to the date of termination of this Agreement the provisions of all of the other Articles of this Agreement shall thereafter continue to be effective for a further period of ten years from such date of termination.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Agreement.

Done in .....on .. .. corresponding to ..... (Iranian year) in two originals, each in the Spanish, Farsi, and English languages all of which are equally authentic.

In case of any divergence of interpretation, the English text shall prevail.

For the Government of the Kingdom of Spain

For the Government of the Islamic Republic of Iran