AGREEMENT BETWEEN THE REPUBLIC OF CHILE AND THE ORIENTAL REPUBLIC OF URUGUAY FOR THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Chile and the Government of the Eastern Republic of Uruguay, 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 party, 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" designates 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, having their seat, as well as their effective economic activities in the territory of that Contracting Party.

2. The term "investment" means every kind of assets or rights related thereto, provided that it is carried out in accordance with the laws and regulations of the Contracting Party in whose territory they are undertaken, and shall include in particular, though not exclusively:

a. Property rights on 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. Rights of claim or any other performance having economic value;

d. Intellectual Property Rights, including copyrights and industrial property rights, such as patents, technical processes, trademarks or trade names, industrial designs, business names, know-how and goodwill;

e. Concessions conferred by law, by an administrative act or under a contract, including concessions to cultivate, extract, explore or exploit natural resources.

3. The term "territory" includes, in addition to the land, sea and air space under the sovereignty of each Contracting Party, marine and submarine areas over which they exercise sovereign rights and jurisdiction in accordance with their respective laws and international law.

Article 2. Scope

This Agreement shall apply to all investments made before or after its entry into force by investors of one Contracting Party,

in accordance with the laws of the other Contracting Party in the territory of the latter. however, it shall not apply to differences or disputes which have arisen prior to its validity or directly related to events before its Entry into Force.

Article 3. Admission , Promotion and Protection of Investments

1. Each Contracting Party shall, subject to its general policy in the field of investment, encourage investments in its territory of investors of the other Contracting Party and admitted in conformity with their legislation and regulations.

2. 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 the management, maintenance, use, enjoyment, extension and sale and liquidation of such investments by unreasonable or discriminatory measures.

Article 4. Treatment of Investments

1. Each Contracting Party shall ensure fair and equitable treatment within its territory to investments of investors of the other Contracting Party and shall ensure that the exercise of the rights recognized shall not be hindered in practice.

2. Each Contracting Party shall accord to investments of investors of the other Contracting Party in its territory treatment no less favourable than that accorded to its own of investments or investors to investors of any third country, whichever is more favourable treatment.

3. Where a Contracting Party grants special advantages to investors of any third State by virtue of an agreement establishing a free trade area, customs union, economic union, a Common Market or any other form of regional economic organization or by virtue of any agreement relating wholly or mainly to taxation matters, that Party shall not be obliged to accord such advantages to investors of the other Contracting Party.

Article 5. Free Transfer

1. Each Contracting Party shall allow investors to without delay of the other Contracting Party to make the transfer of funds related to investments in a freely convertible currency, in particular, though not exclusively:

a. Dividends, interests, income, profits and other returns;

b. Repayments of loans from abroad in connection with an investment;

c. The capital or the proceeds of the total or partial sale or liquidation of an investment;

d. The proceeds of the settlement of a dispute; and compensation pursuant to Article 6.

2. Transfers shall be made in accordance with the rate of exchange prevailing on the date of transfer, according to the Law of the Contracting Party which has admitted the investment;

Article 6. Expropiacion and Compensation

1. Neither Contracting Party shall expropriate, nationalize or take any measure that deprives, directly or indirectly, an investor of the other Contracting Party of its investment, unless the following conditions are met:

a. To be taken for reasons of public purpose or national interest and in accordance with the law;

b. That is not discriminatory;

c. They are accompanied by provisions for the payment of prompt, effective and adequate compensation.

2. The compensation shall be based on the market value of the affected investments immediately prior to that date of expropriation, nationalization or any other measures taken to public knowledge. where it is difficult to determine the value, the compensation shall be determined in accordance with generally recognized principles of valuation and equitable, taking into account the invested capital depreciation, capital, repatriated until that date, replacement value and other relevant factors. any delay in payment of compensation shall accrue interest at a commercial rate established on the basis of the market value, from the date of expropriation or loss until the date of payment.

3. The legality of expropriation, nationalization or any other measures having an equivalent effect and the amount of compensation may be claimed in ordinary judicial procedure.

4. Investors of either Contracting Party whose investments in the territory of the other Contracting Party are losses due to a war or any other armed conflict, a national state of emergency, civil disturbance or other similar events in the territory of the other Contracting Party, shall receive from this latter, as regards restitution, indemnification, compensation or other settlement, a treatment no less favourable than that which the Contracting Party accords to domestic investors or any third State.

Article 7. Subrogation

1. If a Contracting Party or an agency authorised by it has granted a contract of insurance or other form of financial guarantee against 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 rights of the first Contracting Party to the rights of subrogation of the investor, when it has made a payment under the contract or guarantee.

2. If a Contracting Party has paid to an investor and have accordingly been subrogated into the rights and benefits, the investor shall not claim such rights and benefits to the other Contracting Party, except with the express authorization of the first Contracting Party.

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

1. Disputes arising under this agreement between one Contracting Party and an investor of the other Contracting Party which has made investments in the territory of the first shall to the extent possible, amicable resolved through consultations.

2. If consultations fail to produce an solution within three months from the date of request for settlement, the investor may submit the dispute to:

a. The competent courts of the Contracting Party in whose territory the investment was made; or

b. To international arbitration under the conditions described in paragraph 4 of this Article.

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 the arbitral tribunal, the choice of one or other of the procedure shall be final.

4. In the case of option by recourse to international arbitration the dispute may be submitted to one of the following bodies of arbitration, at the choice of the investor:

a. The International Centre 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, opened for signature at Washington on 18 March 1965, when each State Party to this Agreement has acceded to it. As long as this requirement is not fulfilled, each Contracting Party consents that the dispute be submitted to arbitration under the ICSID Additional Facility;

b. To an ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), adopted by Resolution 31/98 of the General Assembly on 15 December 1976. The arbitration tribunal shall be composed of three arbitrators, one appointed by the Contracting Party in whose territory the investment was made, one appointed by the other party to the proceedings and a third arbitrator who shall chair the tribunal appointed by the two arbitrators so chosen. If the third arbitrator is not appointed within 30 days after the appointment of the other two arbitrators, their appointment shall be allocated to the President of the Court of Arbitration of the International Chamber of Commerce in Paris.

5. The arbitral tribunal shall decide on the basis of the provisions of this agreement, under the law of the Contracting Party in whose territory the investment was made, including the rules relating to conflicts of law, in the terms of any specific agreements relating to the investment as well as the principles of international law.

6. The arbitral awards shall be final and binding on the parties to the dispute and shall be executed in accordance with the domestic law of the Contracting Party in whose territory the investment has been made.

7. The Contracting Parties shall seek, through diplomatic channels matters related to disputes submitted to court proceedings or international arbitration in accordance with the provisions of this article, until the relevant processes are completed, except where the other party in the dispute has not complied with the court decision or the decision of the arbitral tribunal, under the terms established in the respective decision or award.

Article 9. Settlement of Disputes between the Contracting Parties

1. Disputes arising between the Contracting Parties concerning the interpretation and application of this Agreement shall be settled as far as possible through amicable negotiations.

2. If an agreement cannot be achieved within a period of six months from the date of notification of the dispute, either Contracting Party may submit it to an ad hoc arbitral tribunal in accordance with the provisions of this Article.

3. The arbitral tribunal shall consist of three members and shall be constituted in the following manner: within two months after the date of notification of the request for arbitration, each Contracting Party shall appoint an arbitrator. Those two arbitrators within thirty days after the appointment of the last one, shall select a third member who shall be a national of a third State, who shall chair the Tribunal. The designation of the Chairman shall be approved by the Contracting Parties within thirty days after the date of his nomination.

4. If within the periods specified in paragraph 2 of this Article, the appointment has not been made or required the approval has been granted, either Contracting Party may request the President of the International Court of Justice to make the appointment. If 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 Vice-President shall make the appointment, and if the latter is prevented or is a national of either contracting assume the judge of the Court who in seniority who is not a national of one of the Contracting Parties shall make the appointment.

5. The President of the Tribunal shall be a national of a third State with which both Contracting Parties maintain diplomatic relations.

6. The arbitral tribunal shall decide on the basis of the provisions of this Agreement and the principles of international law and the general principles of law recognized by the Contracting Parties. the Tribunal shall decide by a majority of votes and shall determine its own procedural rules.

7. Each of the Contracting Parties shall bear the expenses of the respective arbitrator, as well as those related to his representation in the arbitration proceedings. The expenses of the Chairman and the other costs of the proceedings shall be borne equally by the Contracting Parties, unless they agree otherwise.

8. The decisions of the Tribunal shall be final and binding on both Contracting Parties.

Article 10. Consultations

The Contracting Parties shall consult on any matter relating to the application or interpretation of this Agreement.

Article 11. Final Provisions

1. The Contracting Parties shall notify each other when their constitutional requirements for the entry into force of this Agreement have been fulfilled. the Agreement shall enter into force thirty days after the date of the last notification.

2. This Agreement shall remain in force for a period of fifteen years and shall be extended indefinitely thereafter. After the expiration of the aforementioned fifteen-year term, the Agreement may be denounced at any time by either Contracting Party, with twelve months' notice, communicated through diplomatic channels.

3. With respect to investments made prior to the date that was made effective notice of termination of this agreement its provisions shall remain in force for a further period of fifteen years from that date.

4. This Agreement shall apply irrespective of the existence of diplomatic relations between the two Contracting Parties.

Done at Santiago on 26 days of the year in October one thousand nine hundred and ninety-five in duplicate in the Spanish language, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF CHILE

JOSE MIGUEL INSULZA SALINAS

MINISTER OF FOREIGN AFFAIRS

FOR THE GOVERNMENT OF THE REPUBLIC OF PARAGUAY

LUIS MARIA RAMIREZ BOETTNER

MINISTER OF FOREIGN AFFAIRS

By signing the Agreement for the Promotion and Reciprocal Protection of Investments, the Government of the Republic of Chile and the Government of the Oriental Republic of Uruguay agreed on the following provisions, which constitute an integral part of the referred Agreement.

Ad Article 1 N° 1 a)

This Agreement shall not apply to persons who, notwithstanding their foreign nationality, are considered by the domestic legislation of the Contracting Party where their investment is located as one of its nationals.

Ad. Article 5

1. Transfers corresponding to investments made in accordance with the Chilean Program for the Conversion of Foreign Debt shall be governed by the special rules established by said Program.

2. The invested capital may be transferred only after one year from its entry into the territory of the Contracting Party, unless the legislation of the latter provides for a more favorable treatment.

3. A transfer shall be deemed to have been made "without delay" when it has been effected within the period of time normally required for the completion of the transfer formalities. The period, which in no case may exceed thirty days, shall begin to run at the time of delivery of the corresponding request, duly filed.

Done at Santiago on the twenty-sixth day of the month of October of the year one thousand nine hundred and ninety-five, in two copies, in the Spanish language, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF CHILE

FOR THE GOVERNMENT OF THE ORIENTAL REPUBLIC OF URUGUAY