AGREEMENT
ON
THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS
BETWEEN
THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM
AND
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

The Government of the Socialist Republic of Vietnam and the Government of the People's Republic of Bangladesh, hereinafter referred to as the "Contracting Parties";

Desiring to expand and deepen economic and industrial cooperation on a long-term basis, and in particular, to create and maintain favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing the need to promote and protect investment by investors of both the Contracting Parties and to stimulate the flow of investments and individual business initiative with a view to the economic prosperity of both the Contracting Parties;

Have agreed as follows:

ARTICLE 1
Definitions

For the purpose of this Agreement:

(a) "Investment" means every kind of asset and in particular, though not exclusively, it includes:
   (i) movable and immovable property and any other property rights, such as mortgages, liens and pledges;
   (ii) shares, stocks and debentures of companies or interests in the property of such companies;

(iii) a claim to money or a claim to any performance having economic value;
(iv) intellectual and industrial property rights, including rights with respect to copyrights, patents, trademarks, trade names, industrial designs, trade secrets, technical processes and know-how and goodwill as well as other similar rights recognized by the laws of the Contracting Parties; and
(v) business concessions conferred by law or under contract including concessions to search for cultivate, extract, or exploit natural resources.

The said term " investment" shall refer to, with respect to investments in the territory of both the Contracting Parties, all the investment projects which are approved by the Contracting Parties on the basis of the existing laws and regulations of the respective Country;

Any alteration of the form in which assets are invested shall not affect their classification as investments, provided such alteration is not contrary to the laws and regulations of the Contracting Party in the territory of which this investment has been made.

(b) "Returns" means the amount yielded by an investment and in particular, though not exclusively, it includes profits, interest, capital gains, dividends, royalties or management and technical assistance or other fees;

Returns from investment and from re-investment shall enjoy the same protection as investment.

(c) "Investor" in respect of either of the Contracting Parties means:

(i) any natural person possessing the citizenship of or permanently residing in a Contracting Party in accordance with its laws; or
(ii) any corporation, partnership, trust, joint-venture, organization, association or enterprise duly constituted in accordance with the laws and regulations of the Contracting Party;
(iii) any entity or organization established in accordance with the laws of any third State which is controlled by nationals of that Contracting Party or by entities having their seat in the territory of that Contracting Party.

(d) "Territory" means in respect of each Contracting Party, its land territory, internal waters and territorial sea as well as the maritime zones beyond the territorial sea, including the seabed and subsoil, over which the Contracting Party exercises sovereign rights or jurisdiction under its national laws, which shall conform to international law for the purpose of exploration of the natural resources of such areas.

(e) "Freely convertible currency" means the currency that is widely used to make payments for international transactions and widely exchanged in the principal international exchange markets.

ARTICLE 2
Promotion and Protection 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, and shall admit such investment, in accordance with its laws and regulations.

(2) Investments of investors of each Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party.

ARTICLE 3
Most-Favoured-Nation Provisions

(1) Investments made by investors of each Contracting Party in the territory of the other Contracting Party shall receive treatment which is fair and equitable, and not less favourable than that accorded to investments made by investors of any third State.

(2) Investors of Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, no less favourable than that which the latter Contracting Party accords to investors of any third State. Compensation, if any shall be freely transferable.

ARTICLE 4
Exceptions

The provisions of this Agreement relating to the granting of treatment not less favourable than that accorded to the investors of any third State shall not be construed so as to oblige one Contracting Party to extend to the investors of the other the benefit of any treatment, preference or privilege resulting from:

(a) any existing or future customs or free trade area or a monetary union or similar international agreement or other forms of regional economic cooperation to which either of the Contracting Parties is or may become a party;
(b) the adoption of an agreement designed to lead to the formation or extension of such a union or area within a reasonable length of time; or
(c) any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

ARTICLE 5
Expropriation

(1) Neither of the Contracting Parties shall take any measures of expropriation, nationalization or any dispossession, having effect equivalent to nationalization or expropriation against the investment of investors of the other Contracting Party, except under the following conditions:

(a) the measures are taken for a public interest and under due process of law;
(b) the measures are non-discriminatory; or
(c) the measures are accompanied by provision for the payment of prompt, adequate and effective compensation. The compensation shall be equivalent to the market value of the expropriated investments existing immediately before the expropriation occurred or the impending expropriation became public, and shall be paid without undue delay. The compensation shall include interest calculated on the LIBOR basis from the date of expropriation. The compensation shall be effectively realizable and freely transferable.

(2) Investors, whose assets are being expropriated, have a right to prompt review by appropriate judicial or administrative authorities of the expropriating Contracting Party to determine whether such expropriation,

and any compensation therefore conforms to the Provisions of this Article and the laws of the expropriating Contracting Party.

(3) Investors referred to in Article 1, paragraph (c), may not raise claims under this Article if compensation has been paid pursuant to a similar provision in another investment Protection Agreement concluded by the Contracting Party in the territory of which the investment has been made.

ARTICLE 6
Transfer and Payments

(1) Each Contracting Party shall, subject to its laws and regulations, allow without unreasonable delay the transfer in any freely convertible currency of:

(a) the net profits, dividends, royalties, technical assistance and technical fees, interest and other current income, accruing from any investment of the investors of the other Contracting Party;
(b) the proceeds from the total or partial liquidation of any investment made by investors of the other Contracting Party;
(c) funds in repayment of loans related to an investment.

(2) The exchange rate applicable to the transfer referred to in paragraph (1) of this Article shall be the rate of exchange prevailing at the time of remittance.

(3) The Contracting Parties undertake to accord to the transfers referred to in paragraph (1) of this Article treatment as favourable as that accorded to transfers originating from investments made by investors of any third State.

ARTICLE 7
Settlement of Investment Disputes Between a Contracting Party and an Investor of the other Contracting Party

(1) For the purpose of solving disputes with respect to investments between a Contracting Party and an investor of the other Contracting Party, consultations will take place between the parties concerned with a view to solving the case, as far as possible, amicably.

(2) If these consultations do not result in a solution within six months from the date of request for settlement, the investor may submit the dispute, at his choice, for settlement to:

(a) the competent court of the Contracting Party in the territory of which the investment has been made; or

(b) the International Center for Settlement of investment Disputes (ICSID) having regard to the applicable provisions of the Convention on the Settlement of Investment Disputes between States and Nations of the other States opened for signature at Washington D.C. on March 18, 1965, in the event Contracting Parties shall have become a party to this Convention; or

(c) an ad hoc arbitral tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the arbitration rules of the United Nations Commission on International Trade law (UNCITRAL).

(3) Each Contracting Party hereby consents to the submission of an investment dispute to international conciliation or arbitration.

(4) The Contracting Party, which is a party to the dispute, shall, at no time whatsoever during the procedures involving investment disputes, assert as a defence its immunity or the fact that the investor has received compensation under an insurance contract covering the whole or part of the incurred damage or loss.

(5) The arbitral decisions shall be final and binding on both parties to the dispute. Each Contracting Party shall execute them in accordance with its laws and the 1958 United Nations Conventions on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), if the Contracting Parties are members of that Convention.

ARTICLE 8
Settlement of Disputes Between the Contracting Parties

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, if possible, be settled through diplomatic channels.

(2) If a dispute between the Contracting Parties cannot be settled through diplomatic channels, it shall, upon the request of either of the Contracting Parties, be submitted to an arbitral tribunal.

(3) The arbitral tribunal shall be constituted for each individual case in the following way. Within two months of the receipt of the request for arbitration, each Contracting Party shall appoint one member of the tribunal. Those two members shall then select a national of a third State who, on approval by the two Contracting Parties, shall be appointed Chairman of the tribunal. The Chairman shall be appointed within two months from the date of appointment of the other two members.

(4) If within the periods specified in paragraph (3) of this Article the necessary appointments have not been made, either of the Contracting Parties may, in the absence of any other agreement, invite the President of the International Court of Justice to make any necessary appointments. If the President is a national of either of the Contracting Parties 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 of the Contracting Parties, shall be invited to make the necessary appointments.

(5) The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both the Contracting Parties. Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings; the cost of the Chairman and the remaining cost shall be borne in equal parts by the Contracting Parties. The tribunal may, however, in its decision direct that a higher proportion of cost shall be borne by one of the two Contracting Parties, and this award shall be binding on both the Contracting Parties. The tribunal shall determine its own procedure.

ARTICLE 9
Subrogation

If a Contracting Party or its designated agency makes a payment to any of its investors under a guarantee it has granted in respect to an investment, the other Contracting Party shall, without prejudice to the rights of the former Contracting Party or its designated agency under Article 7, in its capacity as a subrogated party, recognize the transfer of any right or title of such investment to the former Contracting Party or its designated agency and the subrogation of the former Contracting Party or its designated agency to any right or title.

ARTICLE 10
More Favourable Provisions

Notwithstanding the terms set forth in this Agreement, more favourable provisions, 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 11
Consultations and Exchange of Information

Upon request by either of the Contracting Parties, the other Contracting Party shall agree promptly to hold consultations on the interpretation or application of this Agreement, and to exchange information on the impact that the laws, regulations, decisions, administrative practices, procedures or policies of the other Contracting Party may have an effect on investments referred to in this Agreement.

ARTICLE 12
Entry into Force, Duration and Termination

(1) This Agreement shall enter into force on the date when the Contracting Parties have notified each other that all necessary constitutional formalities for its entry into force have been completed.

(2) This Agreement shall remain in force for a period of ten (10) years, and shall continue to be in force, unless terminated in accordance with paragraph (3) of this Article.

(3) Either of the Contracting Parties may, by giving one (1) year's written notice to the other Contracting Party, terminate this Agreement at the end of the initial ten (10) year period or anytime thereafter.

(4) With respect to investments made or acquired prior to the date of termination of this Agreement, the provisions of all of the other Articles of this Agreement shall continue to be effective for a period of ten (10) years from such date of termination.

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

Done at Hanoi, on the 18th day of May 2005, in duplicate in the English language, both texts are equally authentic.

FOR AND ON BEHALF OF THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM

Nguyen Dy Nien

Minister of Foreign Affairs

FOR AND ON BEHALF OF THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

18.5.5

Mirza Fakhrul Islam Alamgir

Minister of State for Agriculture