AGREEMENT

BETWEEN

THE BELGO-LUXEMBOURG ECONOMIC UNION,

on the one hand,

AND

THE REPUBLIC OF NICARAGUA,

on the other hand,

ON

THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

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THE GOVERNMENT OF THE KINGDOM OF BELGIUM,
THE GOVERNMENT OF THE GRAND-DUCHY OF LUXEMBOURG,
THE WALLOON GOVERNMENT,
THE FLEMISH GOVERNMENT,
and
THE GOVERNMENT OF THE REGION OF BRUSSELS-CAPITAL,
on the one hand,

and

THE GOVERNMENT OF THE REPUBLIC OF NICARAGUA,
on the other hand,

(hereinafter referred to as “the Contracting Parties”),

DESIRING to strengthen their economic cooperation by creating favourable conditions for investments by nationals of one Contracting Party in the territory of the other Contracting Party,

HAVE AGREED as follows :

ARTICLE 1

DEFINITIONS

For the purpose of this Agreement,

1. The term “investors” shall mean :

   a) the “nationals”, i.e. any natural person who, according to the legislation of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg or of the Republic of Nicaragua, is considered as a citizen of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg or of the Republic of Nicaragua respectively ;

   b) the “companies”, i.e. any legal person enterprise incorporated or duly constituted in accordance with the legislation of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg or of the Republic of Nicaragua and having its registered office in the territory of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg or of the Republic of Nicaragua respectively.

2. The term “investments” shall mean any kind of assets and any direct or indirect contribution in cash, in kind or in services, invested or reinvested in any sector of economic activity.

   The following shall more particularly, though not exclusively, be considered as investments for the purpose of this Agreement :

   a) movable and immovable property as well as any other rights in rem, such as mortgages, liens, pledges, usufruct and similar rights ;

   b) shares, corporate rights and any other kind of shareholdings, including minority or indirect ones, in companies constituted in the territory of one Contracting Party ;

   c) bonds, claims to money and to any performance having an economic value ;

   d) copyrights, industrial property rights, technical processes, trade names, goodwill, trademarks, patents and trade secrets ;

   e) concessions granted under public law or under contract, including concessions to explore, develop, extract or exploit natural resources.

   Changes in the legal form in which assets and capital have been invested or reinvested shall not affect their designation as “investments” for the purpose of this Agreement.

3. The term “returns” shall mean the proceeds of an investment and shall include in particular, though not exclusively, profits, interests, capital increases, dividends, royalties and fees.

4. The term “territory” shall apply to the territory of the Kingdom of Belgium, to the territory of the Grand-Duchy of Luxembourg and to the territory of the Republic of Nicaragua, as well as to the maritime areas, i.e. the marine and underwater areas which extend beyond the territorial waters of the States concerned and upon which the latter exercise, in accordance with international law, their sovereign rights and their jurisdiction for the purpose of exploring, exploiting and preserving natural resources.

5. The term “environmental legislation” shall mean any legislation of the Contracting Parties, or provision thereof, the primary purpose of which is the protection of the environment, or the prevention of a danger to human, animal, or plant life or health.

6. The term “labour legislation” shall mean legislation of the Kingdom of Belgium, of the Grand-Duchy of Luxembourg or of the Republic of Nicaragua, or provisions thereof, that are directly related to the internationally recognised labour rights .

ARTICLE 2

PROMOTION OF INVESTMENTS

1. Each Contracting Party shall promote investments in its territory by investors of the other Contracting Party and shall accept such investments in accordance with its legislation.

2. In particular, each Contracting Party shall authorize the conclusion and the fulfilment of licence contracts and commercial, administrative or technical assistance agreements, as far as these activities are in connection with such investments.

ARTICLE 3

PROTECTION OF INVESTMENTS

1. All investments, whether direct or indirect, made by investors of one Contracting Party shall enjoy a fair and equitable treatment in the territory of the other Contracting Party.

2. Except for measures required to maintain public order, such investments shall enjoy continuous protection and security, i.e. excluding any unjustified or discriminatory measure which could hinder, either in law or in practice, the management, maintenance, use, possession or liquidation thereof.

ARTICLE 4

NATIONAL TREATMENT AND MOST FAVOURED NATION

1. In all matters relating to the treatment of investments, the investors of each Contracting Party shall enjoy national treatment and most-favoured-nation treatment in the territory of the other Party.

2. With respect to the operation, management, maintenance, use, enjoyment and sale or other disposal of investments, each Contracting Party shall accord, on its territory, to investors of the other Contracting Party, treatment no less favourable than that granted to its own investors or to investors of any other State if the latter is more favourable.

3. This treatment shall not include the privileges granted by one Contracting Party to investors of a third State by virtue of its participation or association in a free trade zone, customs union, common market or any other form of regional economic organisation.

4. The provisions of this article do not apply to tax matters.

ARTICLE 5

ENVIRONMENT

1. Recognising the right of each Contracting Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental legislation, each Contracting Party shall strive to ensure that its legislation provide for high levels of environmental protection and shall strive to continue to improve this legislation.

2. The Contracting Parties recognise that it is inappropriate to encourage investment by relaxing domestic environmental legislation. Accordingly, each Contracting Party shall strive to ensure that it does not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such legislation as an encouragement for the establishment, maintenance or expansion in its territory of an investment.

3. The Contracting Parties reaffirm their commitments under the international environmental agreements, which they have accepted. They shall strive to ensure that such commitments are fully recognised and implemented by their domestic legislation.

4. The Contracting Parties recognise that co-operation between them provides enhanced opportunities to improve environmental protection standards. Upon request by either Contacting Party, the other Contracting Party shall accept to hold expert consultations on any matter falling under the purpose of this Article.

ARTICLE 6

LABOUR

1. Recognising the right of each Contracting Party to establish its own domestic labour standards, and to adopt or modify accordingly its labour legislation, each Contracting Party shall strive to ensure that its legislation provide for labour standards consistent with the internationally recognised labour rights set forth in paragraph 6 of Article 1 and shall strive to improve those standards in that light.

2. The Contracting Parties recognise that it is inappropriate to encourage investment by relaxing domestic labour legislation. Accordingly, each Contracting Party shall strive to ensure that it does not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such legislation as an encouragement for the establishment, maintenance or expansion in its territory of an investment.

3. The Contracting Parties reaffirm their obligations as members of the International Labour Organisation and their commitments under the International Labour Organisation Declaration on Fundamental Principles and Rights at Work and its Follow-up. The Contracting Parties shall strive to ensure that such labour principles and the internationally recognised labour rights set forth in paragraph 6 of Article 1 are recognised and protected by domestic legislation.

4. The Contracting Parties recognise that co-operation between them provides enhanced opportunities to improve labour standards. Upon request by either Contacting Party, the other Contracting Party shall accept to hold expert consultations on any matter falling under the purpose of this Article.

ARTICLE 7

EXPROPRIATION, LIMITATION OF OWNERSHIP AND COMPENSATION

1. Each Contracting Party undertakes not to adopt any measure of expropriation or nationalization or any other measure having the effect of directly or indirectly dispossessing the investors of the other Contracting Party of their investments in its territory.

2. If reasons of public purpose, security or national interest require a derogation from the provisions of paragraph 1, the following conditions shall be complied with :

   a) the measures shall be taken under due process of law of the Contracting Party making the nationalization or expropriation ;

   b) the measures shall be neither discriminatory, nor contrary to any specific commitments ;

   c) the measures shall be accompanied by provisions for the payment of an adequate and effective compensation.

3. Such compensation shall amount to the actual value of the investments on the day before the measures were taken or became public.

   Such compensation shall be paid in the currency of the State of which the investor is a national or in any other convertible currency. It shall be paid without delay and shall be freely transferable. It shall bear interest at the normal commercial rate from the date of the determination of its amount until the date of its payment.

4. Investors of one Contracting Party whose investments suffer losses owing to war or other armed conflict, revolution, a state of national emergency or revolt in the territory of the other Contracting Party shall be granted by the latter Contracting Party a treatment, as regards restitution, indemnification, compensation or other settlement, at least equal to that which the latter Contracting Party grants to its own investors or to investors of any third state, whichever is most favourable to the investors concerned.

5. In respect of matters dealt with in this Article, each Contracting Party shall grant to the investors of the other Contracting Party a treatment which shall at least be equal to that granted in its territory to the investors of the most favoured nation. This treatment shall in no case be less favourable than that recognized under international law.

ARTICLE 8

TRANSFERS

1. Each Contracting Party shall grant to investors of the other Contracting Party the free transfer of all payments relating to an investment, including more particularly :

a) amounts necessary for establishing, maintaining or expanding the investment ;

b) amounts necessary for payments under a contract, including amounts necessary for repayment of loans, royalties and other payments resulting from licences, franchises, concessions and other similar rights, as well as salaries of expatriate personnel ;

c) returns of investments ;

d) proceeds from the total or partial liquidation of investments, including capital gains or increases in the invested capital ;

e) compensation paid pursuant to Article 7.

2. The nationals of each Contracting Party who have been authorized to work in the territory of the other Contracting Party in connection with an investment shall also be permitted to transfer an appropriate portion of their earnings to their country of origin.

3. Transfers shall be made in a freely convertible currency at the rate applicable on the day transfers are made to spot transactions, meaning banking transactions in the currency used.

4. Each Contracting Party shall issue the authorizations required to ensure that the transfers can be made without undue delay, with no other charges than taxes, charges, rates or withholding of tax at source.

ARTICLE 9

SUBROGATION

1. If one Contracting Party or any public institution of this Party pays compensation to its own investors pursuant to a guarantee providing coverage for an investment, the other Contracting Party shall recognize that the former Contracting Party or the public institution concerned is subrogated into the rights of the investors.

2. As far as the transferred rights are concerned, the other Contracting Party shall be entitled to invoke against the insurer who is subrogated into the rights of the indemnified investors the obligations of the latter under law or contract.

ARTICLE 10

APPLICABLE REGULATIONS

If an issue relating to investments is covered both by this Agreement and by the national legislation of one Contracting Party or by international conventions, existing or to be subscribed to by the Parties in the future, the investors of the other Contracting Party shall be entitled to avail themselves of the provisions that are the most favourable to them.

ARTICLE 11

SPECIFIC AGREEMENTS

1. Investments made pursuant to a specific agreement concluded between one Contracting Party and investors of the other Party shall be covered by the provisions of this Agreement and by those of the specific agreement.

2. Each Contracting Party undertakes to ensure at all times that the commitments it has entered into vis-à-vis investors of the other Contracting Party shall be observed.

ARTICLE 12

SETTLEMENT OF INVESTMENT DISPUTES

1. Any investment dispute between an investor of one Contracting Party and the other Contracting Party shall be notified in writing by the first party to take action. The notification shall be accompanied by a sufficiently detailed memorandum.

   As far as possible, the Parties shall endeavour to settle the dispute through negotiations, if necessary by seeking expert advice from a third party, or by conciliation between the Contracting Parties through diplomatic channels.

2. In the absence of an amicable settlement by direct agreement between the parties to the dispute or by conciliation through diplomatic channels within six months from the notification, the dispute shall be submitted, at the option of the investor, either to the competent jurisdiction of the State where the investment was made, or to international arbitration.

   To this end, each Contracting Party agrees in advance and irrevocably to the settlement of any dispute by this type of arbitration. Such consent implies that both Parties waive the right to demand that all domestic administrative or judiciary remedies be exhausted.

3. In case of international arbitration, the dispute shall be submitted for settlement by arbitration to one of the hereinafter mentioned organizations, at the option of the investor :

   - an ad hoc arbitral tribunal set up according to the arbitration rules laid down by the United Nations Commission on International Trade Law (U.N.C.I.T.R.A.L.) ;

   - the International Centre for the Settlement of Investment Disputes (I.C.S.I.D.), set up by the Convention on the Settlement of Investment Disputes between States and Nationals of other States, opened for signature at Washington on March 18, 1965, when each State, party to this Agreement has become a party to the said Convention.

   As long as this requirement is not met, each Contracting Party agrees that the dispute shall be submitted to arbitration pursuant to the Rules of the Additional Facility of the I.C.S.I.D.

   - the Arbitral Court of the International Chamber of Commerce in Paris ;

   - the Arbitration Institute of the Chamber of Commerce in Stockholm.

If the arbitration procedure has been introduced upon the initiative of a Contracting Party, this Party shall request the investor involved, in writing to designate the arbitration organization to which the dispute shall be referred.

4. At any stage of the arbitration proceedings or of the execution of an arbitral award, none of the Contracting Parties involved in a dispute shall be entitled to raise as an objection the fact that the investor who is the opposing party in the dispute has received compensation totally or partly covering his losses pursuant to an insurance policy or to the guarantee provided for in Article 9 of this Agreement.

5. The arbitral tribunal shall decide on the basis of the national law, including the rules relating to conflicts of law, of the Contracting Party involved in the dispute in whose territory the investment has been made, as well as on the basis of the provisions of this Agreement, of the terms of the specific agreement which may have been entered into regarding the investment, and of the principles of international law.

6. The arbitral awards shall be final and binding on the parties to the dispute. Each Contracting Party undertakes to execute the awards in accordance with its national legislation.

ARTICLE 13

DISPUTES BETWEEN THE CONTRACTING PARTIES RELATING TO THE INTERPRETATION OR APPLICATION OF THIS AGREEMENT

1. Any dispute relating to the interpretation or application of this Agreement shall be settled as far as possible through diplomatic channels.

2. In the absence of a settlement through diplomatic channels, the dispute shall be submitted to a joint commission consisting of representatives of the two Parties ; this commission shall convene without undue delay at the request of the first party to take action.

3. If the joint commission cannot settle the dispute, the latter shall be submitted, at the request of either Contracting Party, to an arbitration court set up as follows for each individual case :

   Each Contracting Party shall appoint one arbitrator within a period of two months from the date on which either Contracting Party has informed the other Party of its intention to submit the dispute to arbitration. Within a period of two months following their appointment, these two arbitrators shall appoint by mutual agreement a national of a third State as chairman of the arbitration court.

   If these time limits have not been complied with, either Contracting Party shall request the President of the International Court of Justice to make the necessary appointment(s).

If the President of the International Court of Justice is a national of either Contracting Party or of a State with which one of the Contracting Parties has no diplomatic relations or if for any other reason, he cannot exercise this function, the Vice-President of the International Court of Justice shall be requested to make the appointment(s).

4. The court thus constituted shall determine its own rules of procedure. Its decisions shall be taken by a majority of the votes ; they shall be final and binding on the Contracting Parties.

5. Each Contracting Party shall bear the costs resulting from the appointment of its arbitrator. The expenses in connection with the appointment of the third arbitrator and the administrative costs of the court shall be borne equally by the Contracting Parties.

ARTICLE 14

PREVIOUS INVESTMENTS

This Agreement shall also apply to investments made before its entry into force by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the latter's laws and regulations.

It shall, however, not be applicable to disputes, which have arisen prior to its entry into force

ARTICLE 15

ENTRY INTO FORCE AND DURATION

1. This Agreement shall enter into force one month after the date of exchange of the instruments of ratification by the Contracting Parties. The Agreement shall remain in force for a period of ten years.

   Unless notice of termination is given by either Contracting Party at least six months before the expiry of its period of validity, this Agreement shall be tacitly extended each time for a further period of ten years, it being understood that each Contracting Party reserves the right to terminate the Agreement by notification given at least six months before the date of expiry of the current period of validity.

2. Investments made prior to the date of termination of this Agreement shall be covered by this Agreement for a period of ten years from the date of termination.

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

DONE at Luxembourg, on the 27th day of May 2005, in four original copies, each in the French, Dutch, Spanish and English languages, all texts being equally authentic. The text in the English language shall prevail in case of difference of interpretation.

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<tr><td colspan="2" align="center">FOR THE BELGO-LUXEMBOURG
ECONOMIC UNION :</td><td align="center">FOR THE GOVERNMENT
OF THE REPUBLIC
OF NICARAGUA :</td></tr>
<tr><td align="center">For the Government
of the Kingdom of Belgium :

For the Walloon Government :
For the Flemish Government :
For the Government
of the Region of Brussels-Capital :</td><td align="center">For the Government
of the Grand-Duchy of Luxembourg :</td><td></td></tr>
<tr><td align="center">Didier DONFUT,
State Secretary for European Affairs, deputy to the Minister of Foreign Affaires</td><td align="center">Jean ASSELBORN,
Minister of Foreign Affairs</td><td align="center">Norman CALDERA CARDENAL,
Minister of Foreign Affairs</td></tr>
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