Treaty between the Federal Republic of Germany and the Republic of Slovenia on the Promotion and Reciprocal Protection of Capital Investments

The Federal Republic of Germany and the Republic of Slovenia -

In the desire to deepen economic cooperation between the two countries,

In the endeavor to create favorable conditions for the investments of nationals or companies of one State in the territory of the other State,

Recognizing the fact that the promotion and the contractual protection of these investments are capable of stimulating private economic initiatives and increasing the prosperity of the two peoples,

Have agreed as follows:

Article 1.

For the purposes of this Treaty

1. includes the term "investments", assets of any kind, in particular

a) Ownership of movable and immovable property as well as other rights in rem such as mortgages and liens;

b) Share rights in companies and other types of participations in companies;

c) Claims on money used to create an economic value or claims on an economic value;

d) Intellectual property rights, in particular copyrights, patents, utility models, industrial designs, trademarks, trade names, business and commercial secrets, technical procedures, know-how and goodwill;

e) Public-law concessions, including concession and concession concessions;

A change in the form in which assets are invested does not affect their property as an investment;

2. The term "income" means the amounts accruing to an investment, such as profit shares, dividends, interest, royalties or other charges;

3. The term "nationals"

a) With regard to the Federal Republic of Germany:

Germans within the meaning of the Basic Law for the Federal Republic of Germany,

b) As regards the Republic of Slovenia:

Natural persons possessing the nationality of the Republic of Slovenia who have acquired them under the applicable legislation of the Republic of Slovenia;

4. The term "companies" means any legal person, any trading company or any other company or association, with or without legal personality, established in the territory of the respective Contracting Party, whether or not its activity is directed to profit.

Article 2.

(1) Each Contracting Party shall, as far as possible, promote the investment of nationals or companies of the other Contracting Parties in its territory and permit such investments in accordance with its laws. In any case, it will treat capital investments fairly and cheaply.

(2) A Contracting Party shall in no way affect the management, use, use or use of the investments of nationals or companies of the other Contracting Parties in its territory by means of arbitrary or discriminatory measures.

Article 3.

(1) Each Contracting Party shall treat investments in its territory owned or under the influence of nationals or companies of the other Contracting Parties no less favorable than the investments of its own nationals and companies or investments of nationals and companies of third States.

(2) Each Contracting Party shall not treat nationals or companies of the other Contracting Parties any less favorable than their own nationals and companies or nationals and companies of third States with regard to their activities in connection with investments in their territory.

(3) This treatment does not relate to privileges granted by a Contracting Party to third-country nationals or companies because of their membership in a customs or economic union, a common market or a free-trade area or because of their association with it.

(4) The treatment provided for in this Article does not relate to benefits granted by a Contracting Party to third-country nationals or companies under a double-taxation agreement or other arrangements for taxation.

Article 4.

(1) Investments of nationals or companies of a Contracting Party shall enjoy full protection and full security in the territory of the other Contracting Parties.

(2) Investments of nationals or companies of a Contracting Party may be expropriated in the territory of the other Contracting Parties only for the general good and for compensation, be subject to nationalization or be subject to other measures equivalent to expropriation or nationalization. The compensation must correspond to the value of the expropriated investment immediately before the date on which the actual or imminent expropriation, nationalization or comparable measure became publicly known. The compensation must be paid without delay and is payable at the usual bank rate until the time of payment; It must in fact be usable and freely transferable. At the latest at the time of expropriation, nationalization or comparable measure, it must be appropriate for the fixing and performance of the compensation provision. The legality of the expropriation, nationalization or comparable measure and the amount of the compensation must be able to be verified by ordinary proceedings.

(3) Nationals or companies of a Contracting Party who suffer losses in investments by war or other armed conflicts, revolution, national or truce in the territory of the other Contracting Party shall be treated no less favorably by the Contracting Party in respect of repayments, settlements, compensation or other consideration than their own Nationals or companies. Such payments must be freely transferable.

(4) With regard to the matters governed by this Article, the nationals or companies of a Contracting Party shall be treated no less favorably than nationals or companies of third States in the territory of the other Contracting Party.

Article 5.

Each Contracting Party shall guarantee to the nationals or companies of the other Contracting Parties the free transfer of payments in connection with an investment, in particular

a) Of the capital and additional amounts for the maintenance or expansion of the investment;

b) Of income;

c) For the repayment of loans;

d) Of the proceeds in the event of complete or partial liquidation or disposal of the investment;

e) Of the compensation provided for in Article 4.

Article 6.

Where a Contracting Party makes payments to its nationals or companies on the basis of a guarantee for an investment in the territory of the other Contracting Party, that other Contracting Party shall recognize the transfer of all rights or claims of such nationals or companies by law or by reason of the rights of the former Contracting Party To the former Contracting Party. Furthermore, the other Contracting Party shall recognize the entry of the former Contracting Party into all such rights or claims (transferred claims) which the former Contracting Party is entitled to exercise to the same extent as its predecessor. Article 4 (2) and (3) and Article 5 shall apply mutatis mutandis to the transfer of payments under the transferred claims.

Article 7.

(1) Transfers pursuant to Article 4 (2) or (3), Article 5 or 6 shall be effected without delay at the applicable rate.

(2) This rate must correspond to the cross-rate, which is derived from the exchange rates which the International Monetary Fund would use as the basis for the conversion of the currencies into special drawing rights.

Article 8.

(1) If the legislation of a Contracting Party or obligations under international law which exist between the contracting parties or which are established in the future are governed by a general or special regulation which gives the investments of the nationals or companies of the other Contracting Parties more favorable treatment than under this Treaty Is to be granted, this provision shall be governed by this Treaty in so far as it is more favorable.

(2) Each Contracting Party shall comply with any other obligation which it has assumed in respect of investments in its territory by nationals or companies of the other Contracting Parties.

Article 9.

This Agreement shall also apply to existing investments made by nationals or companies of one Contracting Party in accordance with the legislation of the other Contracting Party in its territory before the entry into force of this Treaty.

Article 10.

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Treaty shall, as far as possible, be settled by the Governments of the two Contracting Parties.

(2) If a disagreement can not be settled in this way, it shall be submitted to an arbitration court at the request of one of the two contracting parties.

(3) The arbitral tribunal shall be constituted on a case-by-case basis by appointing a member to each of the Contracting Parties, and both members as members of a third State as chairman to be appointed by the Governments of the two Contracting Parties. The members shall be appointed within two months to appoint the chairman within three months after the one party to the agreement has notified the other that it wishes to submit the dispute to an arbitration tribunal.

(4) If the deadlines set out in paragraph 3 are not met, in the absence of any other agreement, each Contracting Party may ask the President of the International Court of Justice to make the necessary appointments. If the President has the nationality of either Contracting Party or if he is prevented from doing so for another reason, the Vice-President shall make the appointments. If the vice-president also has the nationality of one of the two contracting parties or if he is also prevented from doing so, the next member of the court, who is not a national of one of the two contracting parties, shall make the honors.

(5) The arbitral tribunal shall decide by a majority of votes. Its decisions are binding. Each Contracting Party shall bear the costs of its member and its representation in the proceedings before the arbitral tribunal; The costs of the chairman and the other costs are borne equally by the two contracting parties. The arbitral tribunal may adopt a different cost regime. Moreover, the arbitral tribunal shall regulate its own procedures

(6) If both Contracting Parties are also Contracting States to the Convention of 18 March 1965 on the resolution of disputes between States and nationals of other States, the provisions of Article 27 (1) of the Convention may not be applied to the arbitration referred to above Or the company of a Contracting Party and the other Contracting Party, an agreement has been concluded in accordance with Article 25 of the Convention. The possibility of calling the arbitral tribunal provided for in the event of failure to comply with a decision of the arbitration tribunal of the said Convention (Article 27) or in the case of a

transfer by force of law or legal transaction pursuant to Article 6 of this Treaty shall remain unaffected.

Article 11.

(1) Disputes concerning investment between one of the Contracting Parties and a national or a company of the other Contracting Parties shall, as far as possible, be settled amicably between the Contracting Parties.

(2) If the disagreement can not be settled within a period of six months from the date of its assertion by one of the two parties, it shall be subject to arbitration at the request of the national or the company of the other Contracting Party. Unless the parties to the dispute reach a dissenting agreement, the dissension shall be subject to arbitration under the Convention of 18 March 1965 on the resolution of disputes between States and nationals of other States.

(3) The arbitration award shall be binding and shall not be subject to any means of redress or other remedies other than those provided for in the said Convention. It is enforced under national law.

(4) The Contracting Party involved in the dispute shall not claim as an objection during an arbitration proceedings or the enforcement of an arbitration award that the national or the company of the other Contracting Party has received compensation for part or all of the damage resulting from insurance.

Article 12.

This Agreement shall apply irrespective of whether diplomatic or consular relations exist between the two Contracting Parties.

Article 13.

(1) This Treaty shall be subject to ratification; The instruments of ratification will be exchanged as soon as possible in Bonn.

(2) This Treaty shall enter into force one month after the exchange of the instruments of ratification. It remains in force for ten years; After the expiry of which period, the term of validity shall be extended indefinitely unless one of the two Contracting Parties terminates the contract in writing with a notice period of twelve months before the expiry of the contract. After ten years, the contract may be terminated at any time by a period of twelve months.

(3) For investments made up to the date of the expiry of this Treaty, Articles 1 to 12 shall continue to apply for a further fifteen years from the date of expiry of the Treaty.

Done at Ljubljana, this 28th day of October 1993, in two originals, each in the Slovenian and German languages, both texts being equally authentic.

For the Federal Republic of Germany

Dr. G. Seibert

v. Würzen

For the Republic of Slovenia.

V. Ravbar

Protocol

At the signing of the Treaty between the Federal Republic of Germany and the Republic of Slovenia on the Promotion and Reciprocal Protection of Capital Investments, the undersigned Plenipotentiaries also agreed on the following provisions, which shall be deemed to be integral parts of the Treaty:

(1) Ad Article 1

(a) The proceeds of the investment and, in the case of reinvestment, the proceeds thereof, shall enjoy the same protection as the investment.

(b) Without prejudice to other procedures for determining nationality, a national of a Contracting Party shall be deemed to be any person holding a national passport issued by the competent authorities of that Party.

(2) Ad Article 2

(a) Investments made in accordance with the laws of one Contracting Party in its territory by nationals or companies of the other Contracting Party shall enjoy the full protection of the Treaty.

(b) The Treaty shall also apply in the areas of the exclusive economic zone and the continental shelf to the extent that the international law of the respective Contracting Party permits the exercise of sovereign rights or powers in such areas.

(3) Ad Article 3

(a) For the purposes of Article 3, paragraph 2, "treatment" shall be deemed to include, but not be limited to, the management, use, enjoyment and enjoyment of a capital investment. "Less favorable" treatment within the meaning of Article 3 shall be deemed to include, in particular, differential treatment in the case of restrictions on the supply of raw materials and supplies, energy and fuels, and means of production and inputs of all kinds, differential treatment in the case of obstacles to the sale of products at home and abroad, and other measures having a similar effect. Measures to be taken for reasons of public safety and order, public health or morality shall not be considered as "less favorable" treatment within the meaning of Article 3.

(b) The provisions of Article 3 shall not oblige a Party to extend to individuals and companies resident in the territory of the other Party tax advantages, exemptions and facilities which, under its tax laws, are available only to individuals and companies resident in that territory.

(c) The Contracting Parties shall, within the framework of their national legislation, give favorable consideration to applications for entry and residence of persons of one Contracting Party who wish to enter the territory of the other Contracting Party in connection with an investment of capital; the same shall apply to workers of one Contracting Party who wish to enter and reside in the territory of the other Contracting Party in connection with an investment of capital in order to carry on activities as workers. Applications for work permits shall also be given favorable consideration.

(4) Ad Article 4

Nationals or companies shall also be entitled to compensation where measures referred to in paragraph 2 of Article 4 interfere with the undertaking in which they have an interest and thereby affect their investment of capital.

(5) Ad Article 7

For the purposes of Article 7, paragraph 1, a transfer shall be deemed to have been effected ''without delay'' if it is effected within a period which is normally necessary for the observance of the formalities for the transfer. The period shall begin with the submission of a request to that effect and shall under no circumstances exceed two months.

(6) In the case of claims for goods and persons in connection with a capital investment, a Contracting Party shall neither exclude nor hinder the transport companies of the other Contracting Party and shall, if necessary, grant permission for the transports to be carried out.

(7) On the date of entry into force of the Treaty between the Federal Republic of Germany and the Republic of Slovenia on the Claims and Reciprocal Protection of Capital Investments, the Treaty of 10 July 1989 between the Federal Republic of Germany and the Socialist Federal Republic of Yugoslavia on the Reciprocal Protection and Claims of Capital Investments shall cease to have effect in the relationship between the Federal Republic of Germany and the Republic of Slovenia.

Done at Ljubljana, this 28th day of October 1993, in two originals, each in the German and Slovenian languages, both texts being equally authentic.

For the Federal Republic of Germany

Dr. G. Seibert

v. Wurzen

For the Republic of Slovenia

V. Ravba

Ljubljana, October 28, 1993

Republic of Slovenia Ministry of Foreign Affairs

Minister

Excellency,

On the occasion of the signing of the Treaty between the Federal Republic of Germany and the Republic of Slovenia on the claim and mutual protection of capital investments, I have the honor to inform you of the following:

The Government of the Republic of Slovenia will not apply the above-mentioned treaty to such capital investments of citizens or companies of the Federal Republic of Germany in the territory of the Republic of Slovenia which, at the time of the entry into force of the treaty, no longer exist and on the settlement of which a final arrangement has already been made.

Please accept, Sir, the assurance of my highest consideration.

His Excellency the Ambassador of the Federal Republic of Germany

Mr Dr. Gunther Seibert

The Ambassador of the Federal Republic of Germany

Ljubljana, October 28, 1993"

Excellency,

I have the honor to acknowledge receipt of your note with the following content:

"On the occasion of the signing of the Treaty between the Federal Republic of Germany and the Republic of Slovenia on the claim and mutual protection of capital investments, I have the honor to inform you of the following:

The Government of the Republic of Slovenia will not apply the above-mentioned treaty to such capital investments of citizens or companies of the Federal Republic of Germany in the territory of the Republic of Slovenia which, at the time of the entry into force of the treaty, no longer exist and on the settlement of which a final arrangement has already been made."

Please accept, Sir, the assurance of my highest consideration.

His Excellency the Minister of Foreign Affairs of the Republic of Slovenia

Mr Lojze Peterle

61000 Ljubljana