Agreement between the Government of the French Republic and the Government of the People's Republic of Bulgaria on the reciprocal encouragement and protection of investments

The Government of the French Republic and the Government of the People's Republic of Bulgaria's,

Desiring to enhance economic relations and cooperation between the two countries and to secure favorable conditions for French investments in Bulgaria and Bulgarian investments in France,

Recognizing that the promotion and protection of investments contribute to the development of initiatives in this area, taking into account the Final Act of the Conference on Security and Cooperation in Europe,

Have agreed as follows:

Article 1.

For the purposes of this Agreement:

1. The term "Investment" means the financial assets and property rights related to any kind of participation in companies, corporations, or any other form of participation, and in particular:

a) Property rights and other rights in rem;

b) All claims and rights to any performance having an economic value;

c) Copyrights, industrial property rights, such as patents, licences, trademarks, industrial designs or models, technical processes, trade names, know-how and goodwill;

d) Activities carried out under the law or pursuant to a contract with a competent body, relating to prospecting, culture, extract or exploit natural resources.

The financial assets and property rights must be invested in accordance with the legislation of the Contracting Party in whose territory the investment is made.

Any alteration of the form of investment mentioned above does not affect their status as investments provided that such change is not contrary to the legislation of the State in whose territory the investment is made or to the approval granted to the investment.

2. The term "returns" means the amounts yielded by an investment such as net profit or interests during a period of time.

3. The term "investor" means:

a) Any natural person who is a national of one of the Contracting Parties and which may, in accordance with the law of that Contracting Party, investments in the territory or maritime zones of the other Contracting Party;

b) Any juridical person in the territory of one of the Contracting Parties in accordance with their legislation and having its registered office;

c) Any legal person directly or indirectly controlled by one or more natural persons having the nationality of either Contracting Party or by one or more legal persons having their headquarters in the territory of one of the Contracting Parties and constituted in accordance with the law of that Contracting Party.

4. This Agreement shall apply to the territory of each Contracting Party as well as the maritime zones of each of the Contracting Parties are defined as the following sea or submarine areas over which the contracting party exercises, in accordance with international law, sovereign rights or jurisdiction.

Article 2.

1. Each Contracting Party shall encourage in its territory and in the maritime zones investments made by investors of the other Contracting Party.

2. Investments approved under the legislation of the Contracting Party in the territory and in the maritime areas of which they are undertaken, shall enjoy the protection of this Agreement.

3. Investment income and in case of reinvestment, income from their reinvestment shall enjoy the same protection as the investment.

Article 3.

Each Contracting Party undertakes to ensure in its territory and in its maritime zones a fair and equitable treatment, in accordance with the principles of international law, of investments made by investors of the other Party and to ensure that the exercise of the right so recognized is not hindered in law or in fact.

Article 4.

1. Each Contracting Party undertakes to treat investors of the other Party in its territory and maritime zones, in respect of their investments and investment-related activities, no less favourably than investors of the most favoured Nation.

2. In the event of more favourable treatment of investments made by investors of a third country on the basis of legal provisions of one of the Contracting Parties or on the basis of international conventions, such treatment shall also apply to investments covered by this Agreement.

3. This treatment shall not apply to privileges which either Contracting Party accords to investors of a third State by virtue of its participation in union or association and economic communities, customs union, free trade areas or any other form of regional economic organization.

Article 5.

1. Investments made by investors of either Contracting Party shall enjoy, in the territory or maritime zones of the other Contracting Party of full protection and security.

2. Neither Contracting Party shall, in respect of investments made by investors of the other Contracting Party of measures of expropriation or nationalisation except for a public purpose and provided that they are neither discriminatory nor contrary to a specific commitment entered into by the Contracting Party concerned and that those measures shall be subject to the payment of adequate compensation.

The amount of compensation shall correspond to the real value of the affected investments by reference to a normal economic situation and immediately prior to the time when the measure becomes known to the public.

Such compensation, its amount and has no later than the date on which the measure was taken. the compensation shall be paid without delay, and effectively realisable freely transferable. it produces until the date of payment, interest calculated on the LIBOR rate of exchange used for the payment of compensation.

3. Investors of each Contracting Party whose investments suffer damage in connection with war, armed conflict, national emergency, disturbance or other similar events occurring in the territory or maritime zones of the other Contracting Party shall be accorded by the latter treatment which is non-discriminatory and at least as favourable as that accorded to investors of the most favoured nation in respect of restitution, compensation, indemnification or other relief.

Article 6.

1. Each Contracting Party shall accord to investors of the other Contracting Party, after the fulfillment of all tax obligations, the free transfer of:

a) Capital and additional amounts to maintain or increase the investment;

b) Investment income;

c) The proceeds from a total or partial liquidation of the investment;

d) The amounts required for payment of expenses which arise from the operation of the investment, such as:

- The repayment of loans;

- The payment of royalties;

- The payment of other costs;

e) Compensation in accordance with Article 5;

f) A proportion of remunerations received by the nationals of the other Contracting Party for work or services supplied in connection with investments in its territory and in the maritime areas, in accordance with its laws and regulations.

2. The transfers referred to in the preceding paragraph shall be made without delay at the rate of exchange prevailing on the date of transfer in the State in which the investment has been made, after the execution of tax obligations.

Article 7.

1. If the legislation of either Contracting Party provides a guarantee for investments abroad, it may only be granted after examination on a case-by-case basis, to investments made by investors of that Party in the territory and in the maritime zones of the other party.

Such investments shall be covered by the guarantee referred to in the preceding subparagraph only if they have previously obtained the authorisation of the Contracting Party in the territory or maritime zones of the investment which has been made.

2. If one of the Contracting Parties, by virtue of a guarantee given in respect of an investment in the territory or maritime zones of the other party makes payment to one of its investors it is thereby entered into the rights and claims open to the latter, taking into account the obligations related to those rights.

Such payments shall not affect the rights of the holder of the security to have recourse to the dispute settlement procedures provided for in article 8 and to continue its actions brought before the competent arbitral tribunal until the completion of that procedure.

Article 8.

1. Any dispute between one Contracting Party and an investor of the other Contracting Party relating to investments shall as far as possible be settled amicably between the two parties to the dispute.

2. If such a dispute cannot be settled within six months from the time at which it was raised by either party to the dispute, it may be referred to the competent courts of the Contracting Party which is a party to the dispute and in the territory or maritime zones of which the investment is made.

3. The investor concerned may choose to submit in writing to the ad hoc arbitration a dispute concerning the measures referred to in Article 5, paragraph 2, including the existence in the amount of compensation, its terms of payment as well as the interest rate in case of delay in payment, provided that it has not submitted the dispute to the competent courts of the Contracting Party which is a party to the dispute.

The dispute shall be settled definitively, in accordance with the Arbitration Rules of the United Nations Commission on United Nations Commission on International Trade Law (UNCITRAL), as adopted by the United Nations General Assembly, in its resolution No. 31-98 of 15 December 1976.

Article 9.

Investments which has been the subject of a particular contractual obligation of either Contracting Party to the investors of the other Contracting Party shall be governed, without prejudice to the provisions of this Agreement by the terms of that commitment to the extent that it would include provisions which are more favourable to the investor than those provided for in this Agreement.

Article 10.

1. Disputes concerning the interpretation or application of this Agreement shall be settled through negotiations between the

Contracting Parties.

2. If the dispute cannot be settled within six months from the time at which it was raised by either Contracting Party and unless otherwise agreed on the establishment of a new deadline, it shall be submitted at the request of either of the contracting parties to an arbitral tribunal.

3. The arbitration tribunal shall be constituted for each individual case in the following way:

Each Contracting Party shall appoint an arbitrator. The party intending to bring a dispute to a court of arbitration shall notify the name of the arbitrator it has chosen in the notice of arbitration sent to the other party. The latter, within two months of the receipt of the opinion, shall communicate to the arbitrator appointed the name of the arbitrator appointed.

The President of the arbitral tribunal shall be appointed by the arbitrators appointed in accordance with the provisions of the previous paragraph, within one month of the appointment of the second arbitrator.

4. In the event of failure to observe the time limits set out in paragraph 3 or in the absence of any other agreement, either Contracting Party may invite the Secretary-General of the United Nations to make the necessary appointments. If the Secretary-General is a national of either Contracting Party or if he is otherwise prevented from exercising this function, the most senior Under-Secretary-General, who is not a national of either Contracting Party, shall make the necessary appointments.

5. The arbitral tribunal shall determine its own procedure. It shall reach its decision by a majority of votes in accordance with the provisions of this Agreement. The award of the arbitral tribunal shall be final and binding on the parties.

6. The fees of the arbitrators and the President of the court of arbitration shall be determined by the Court of Arbitration and must be approved by the parties. The costs of the arbitration proceedings shall be borne in equal parts by the parties.

Article 11.

Each Contracting Party shall in accordance with its domestic law and to ensure the most favourable issues relating to the entry, stay and work and traffic in its territory of nationals of the other Contracting Party engaged in investment within the meaning of the present Agreement, as well as members of their families.

Article 12.

This Agreement shall apply to all investments made after 1 January 1960.

Article 13.

1. This Agreement shall be subject to ratification or approval by the respective organs of the Contracting Parties in accordance with their national legislation. It shall enter into force on the first day of the third month following the date of the exchange of instruments of ratification or approval.

2. This agreement is concluded for a period of ten years. It shall remain in force beyond the term and indefinitely unless one of the Contracting Parties denounces it in writing at least six months before the expiry of this period. Where this Agreement shall remain in force after the initial period of validity, either Contracting Party may denounce it through diplomatic channels with a one-year written notice.

3. In respect of investments made prior to the date of expiry of the validity of this Agreement, they will continue to benefit from the protection of its provisions for a further period of twenty years.

Article 14.

Each Contracting Party may propose to the other Contracting Party consult each other on all matters related to the implementation or interpretation of this Agreement. Each Contracting Party shall take the necessary steps to make this possible consultation.

Article 15.

The modalities of application of certain provisions of this Agreement shall be the subject of two annexes are an integral part of this Agreement.

Done at Sofia, on 5 April 1989, in two originals, Bulgarian and English languages, both texts being equally authentic.

For the Government of the French Republic :

MR. JEAN-MARIE RAUSCH,

Minister for Foreign Trade

For the Government of the People's Republic of Bulgaria:

MR ANDREJ LOUKANOV

Minister for Foreign Economic Relations

Annex I. Protocol

At the time of signature of the Agreement between the Government of the French Republic and the Government of the People's Republic of Bulgaria's on the encouragement and reciprocal protection of investments, it was agreed by both parties that the following provisions shall form an integral part of the Agreement.

1. As Regards Article 4:

All activities relating to investment and relating to purchase and transport of raw materials and auxiliary materials, energy and fuel or of means of production or operation of any kind and sale and transport of goods within the country and abroad shall be accorded treatment no less favourable than that accorded to similar activities carried out by other investors.

2. As Regards Article 5:

The provisions of article 5 (2) shall apply to measures of expropriation or nationalization as well as any measure of deprivation or restriction of rights in rem which may have consequences similar to expropriation.

3. With Respect to Article 6:

For the People's Republic of Bulgaria, transfers referred to in article 6 (1) (a) to (d) shall be made in the convertible currency of the joint enterprise or the investor concerned.

In the event that a joint enterprise exercises, with the authorization of the Bulgarian authorities an economic activity is wholly or partially products in local currency and that it does not have sufficient assets in convertible currencies, the Bulgarian National Bank shall provide the convertible currencies as may be necessary to the transfer of proceeds from investment and its total or partial liquidation, (b) and (c) of Article 6, paragraph 1, in exchange for local currency.

4. As Regards Article 8:

a) The provisions of Article 8 (3) shall apply only to measures of expropriation or nationalisation referred to in Article 5 (2), excluding any measure of expropriation or similar effects referred to in paragraph 2 of this Protocol.

b) The ad hoc tribunal under article 8 (3) shall be constituted for each individual case in the following way: each party to the dispute shall appoint one arbitrator and the two arbitrators shall appoint a President who shall be a national of a third State. the two arbitrators shall be appointed within two months and the Chairman within three months from the date on which the investor Party to the dispute has been notified to the other party to the dispute of its intention to submit the dispute to an ad hoc arbitration.

In the event that the time limits referred to above are not complied with, either party to the dispute may request the President of the Arbitration Tribunal at the Stockholm Chamber of Commerce to make such an appointment within two months.

The ad hoc arbitral tribunal shall establish its own rules of procedure in accordance with the Arbitration Rules of the United

Nations Commission on United Nations Commission on International Trade Law (UNCITRAL) adopted by the United Nations General Assembly, in its Resolution No. 31 / 98 of 15 December 1976.

(c) the arbitral tribunal shall render its award by a majority of votes. such decisions shall be final and binding on both parties to the dispute and be implemented by the parties in accordance with their national legislation.

d) The award of the arbitral tribunal is made with reference to the provisions of this Agreement, the appropriate domestic legislation and the universally accepted principles of international law.

e) Each Party to the dispute shall bear the costs of its own arbitrator and its representation in the arbitration proceedings. The cost of the Chairman and the remaining costs shall be borne in equal parts by the parties.

Done at Sofia, on 5 April 1989, in two originals, Bulgarian and English languages, both texts being equally authentic.

For the Government of the French Republic :

MR. JEAN-MARIE RAUSCH,

Minister for Foreign Trade

For the Government of the People's Republic of Bulgaria:

MR ANDREJ LOUKANOV

Minister for Foreign Economic Relations