AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF BULGARIA AND THE GOVERNMENT OF THE SLOVAK REPUBLIC FOR PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Slovak Republic and the Government of the Republic of Bulgaria, hereinafter referred to as «Contracting Parties",

Desiring to intensify the economic co-operation between the two States, on the mutual benefit base,

Intending to create and maintain favourable conditions for investments of investors of one Contracting Party in the territory of the other Contracting Party, and

Conscious that the promotion and reciprocal protection of investments stimulates, the initiatives in this field,

HAVE AGREED AS FOLLOWS:

Article 1. Definition

For the purposes of this Agreement:

1. The term "investment" shall mean every kind of asset invested in connection with economic activities by an investor of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter and shall include, in particular but not exclusively:

a) Property rights and any other real rights,

b) Shares, stocks or securities, materializing participation in companies,

c) Outstanding claims to money as well as any other rights having economic value related to an investment,

d) Intellectual property rights, including copyrights, trade marks, patents, industrial designs, technical processes, know-how, trade names and goodwill associated with an investment,

e) Rights to carry out business activities conferred by law, under a contract or an administrative act or administrative act or licenses of a competent state authority and in particular to search form cultivate, extract or exploit of natural resources.

A subsequent change of the form in which the investments have been made shall not affect their substance as investments, provided that such a change does not contradict the laws of the relevant Contracting Party. 2. The term "returns" shall mean profits, dividends, interest and other lawful income yielded by investments.

3. The term "investor" shall mean:

a) With respect to either Contracting Party: a natural person who is a national of one of the Contracting Parties in accordance with its applicable legislation, and- A natural person who is a national of one of the Contracting Parties in accordance with its applicable legislation, and

b) With respect to the Slovak Republic: a legal person with juridical personality incorporated or constituted in accordance with its laws,- A legal person with juridical personality incorporated or constituted in accordance with its laws,

c) With respect to the Republic of Bulgaria: any company, firm, organization or association with or without juridical personality incorporated or constituted in accordance with its legislation, with a seat in its territory.- Any company, firm, organization or association with or without juridical personality incorporated or constituted in accordance with its legislation, with a seat in its territory.

4. The term "territory" shall mean:

a) With respect to the Slovak Republic: the territory of the Slovak Republic over which the Slovak Republic has sovereignty and jurisdiction in accordance with international law,- The territory of the Slovak Republic over which the Slovak Republic has sovereignty and jurisdiction in accordance with international law,

b) With respect to the Republic of Bulgaria: the territory under the sovereignty of the Republic of Bulgaria including the territorial sea, the continental shelf and the exclusive economic zone, over which the Republic of Bulgaria exercises sovereign rights or jurisdiction in conformity with international law.- The territory under the sovereignty of the Republic of Bulgaria including the territorial sea, the continental shelf and the exclusive economic zone, over which the Republic of Bulgaria exercises sovereign rights or jurisdiction in conformity with international law.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall promote and protect in its territory investments of investors of the other Contracting Party and shall admit such investments in accordance with its laws and regulations and accord them fair and equitable treatment and protection.

2. In case of reinvestment of returns from the investments, these reinvestments and their returns shall enjoy the same protection as the initial investments.

3. Each Contracting Party shall consider favourably, and in compliance with its laws and regulations questions concerning entry, stay, work and movement in its territory of nationals of the other Contracting Party who carry out activities connected with the investments as defined in the present Agreement and of their families forming part of their household.

Article 3. National and Most-favoured-nation Treatment

1. Neither Contracting Party shall accord to investments made in its territory by investors of the other Contracting Party, treatment less favourable than that accorded to investments made by its own investors or by investors of any third State, whichever is more favourable.

2. Neither Contracting Party shall accord to investors of the other Contracting Party, as regards their maintenance, use and management of their investments in its territory, treatment less favourable than that accorded to its own investors or to investors of any third State, whichever is more favourable.

3. The provisions of paragraph 1 and 2 of this Article shall not be construed so as to oblige either Contracting Party to extend to the investors of the other Contracting Party the privileges accorded to investors of a third State based on:

a) Existing or future customs union or free trade area, economic communities or similar international institutions or,

b) Agreements on avoidance of double taxation.

4. Each Contracting Party reserves the right to make, in compliance with its legislation in force, exceptions from national treatment granted according to paragraphs 1 and 2 of this Article.

Article 4. Compensation for Losses

When investments by investor of either Contracting Party suffer losses owing to war, armed conflict, a state of national emergency, revolt, insurrection, riot or other similar events in the territory of the other Contracting Party, they shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State. Resulting payments shall be freely transferable in freely convertible currency without delay.

Article 5. Expropriation

Investments of investors of either Contracting Party shall not be nationalized, expropriated or subjected to measures having effect equivalent to nationalisation or expropriation in the territory of the other Contracting Party except in the public interest, under due process of law on a non-discriminatory basis and upon prompt, adequate and effective compensation. Such compensation shall amount to the market value of the investment expropriated immediately before expropriation or impending expropriation became public knowledge, shall be made without delay and shall include interest at 12 months LIBOR quoted for the currency in which the investments has been made until the date of payment.

Article 6. Transfers

1. Each Contracting Party shall permit investors of the other Contracting Party, after the fulfilment of all tax obligations, the free transfer of the sums related to investment such as:

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

b) Returns from the investment,

c) Proceeds obtained from the total or partial liquidation of the investment,

d) The sums required for payment of the expenses which arise from the operation of the investment, such as loan repayments and payment of patents or licence fees,

e) Compensation payable in accordance with Article 5,

f) The remuneration received by the nationals of the other Contracting Party for work or services done in connection with investments made in its territory, in accordance with its laws and regulations.

2. The transfers referred to in the preceding paragraph shall be made without delay, at the exchange rate prevailing on the date of the transfer in the territory of the Contracting Party where the investment was made.

3. In accordance with the legislation of either Contracting Party to all transfers subjected to this article shall be accorded treatment no less favourable than that accorded to the transfers of an investment made by an investor of any third State.

Article 7. Subrogation

1. If a Contracting Party or its designated agency makes payment to its own investors under a guarantee it has accorded in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognize:

a) The assignment, whether under the law or pursuant to a legal transaction in that country, of any right or claim by the investor to the former Contracting Party or its designated agency, as well as,

b) That the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise to the extend the rights and enforce the claims of that investor and shall assume the obligations related to the investment.

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

1. Disputes between an investor of one Contracting Party and the other Contracting Party concerning the obligations of the latter under this Agreement, in relation to an investment of the former, shall, as far as possible, be settled in an amicable way.

2. If such dispute cannot be settled within six months from the date either party requested amicable settlement, the investor concerned may submit the dispute to the competent court of the Contracting Party, which is part of the dispute.

3. In case of dispute with regard to Articles 4, 5, 6 and 7 of this Agreement, the investor concerned may choose, instead, to submit the dispute for settlement by arbitration to:

a) An ad hoc Arbitral Tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL). The parties to the dispute may agree in writing to modify these Rules, or

b) The International Centre for Settlement of Investment Disputes, in the event that the Republic of Bulgaria becomes a party to the Convention of Investment Disputes between States and Nationals of other States opened for signature at Washington D.C. on 18 March 1965 (ICSID Convention).

For this purpose each Contracting party herewith declares its consent to the above mentioned international arbitration. 4. The Arbitral Tribunal shall reach its decision on the basis of the national laws and regulations of the Contracting Party which is a part to the dispute, the provisions of this Agreement, as well as the general principles of international law.

5. The decision of the Arbitral Tribunal shall be final and binding for the parties to the dispute and the Contracting Parties shall execute the decision in accordance with their national laws and regulations.

6. Each of the parties to the dispute shall bear the costs of its arbitrator and its representation in the arbitral proceedings and the cost of the Chairman and the remaining costs shall be borne in equal parts by the parties to the dispute.

Article 9. Settlement of Disputes between the Contracting Parties

1. Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, as far as possible, be settled through negotiations between the Contracting Parties.

2. If a dispute between the Contracting Parties cannot thus be settled within six months after the beginning of negotiations, it shall upon the request of either Contracting Party be submitted to an Arbitral Tribunal.

3. Such an Arbitral Tribunal shall be constituted for each individual case in the following way: Within three months from 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 Contracting Party may, in the absence of any other agreement, request the President of the International Court of Justice in Haga to make any necessary appointments. If the President is a national of either Contracting Party, or if he is otherwise prevented from discharging the said function, the Vice-President shall be requested 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 Contracting Party shall be requested to make the necessary appointments.

5. The tribunal determines its own procedure. The Arbitral Tribunal reaches its decision on the basis of the provisions of the present Agreement concluded between the Contracting Parties as well as the generally accepted principles and rules of international law. The Arbitral Tribunal reaches its decision by a majority of votes. Such decisions shall be final and binding on both Contracting Parties.

6. 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 costs shall be borne in equal parts by the Contracting Parties.

Article 10. Consultation

Each Contracting Party may propose to the other Contracting Party to enter into consultations concerning all questions related to the implementation or interpretation of the present Agreement. The other Contracting Party shall make the necessary arrangements for holding these consultations.

Article 11. Application of other Rules and Special Commitments

If the national legislation of the Contracting Parties or present or future international agreements applicable between the Slovak Republic and the Republic of Bulgaria or other international agreements, to which they are parties, contain regulations, whether general or specific, entitling investments by investors of the other Contracting Party to a treatment more favourable than is provided for by the present Agreement, such regulation shall to the extent that is more favourable prevail over the present Agreement.

Article 12. Applicability of this Agreement

1. The present Agreement shall also apply to investments, made by an investor of one Contracting Party in the territory of the other Contracting Party before the entry into force of the present Agreement.

2. The present Agreement shall not apply to investments made under the agreements within the framework of the former Council for Mutual Economic Assistance, unless such investments are transformed according to foreign investment laws of the Contracting Parties.

Article 13. Entry Into Force, Duration and Termination

1. The Contracting Parties shall notify each other that their constitutional requirements for the entry into force of this Agreement have been fulfilled. This Agreement shall enter into force on the date of the second notification.

2. The present Agreement is concluded for a period of fifteen years and its validity shall be extended automatically for successive period of five years, unless twelve months prior the date of expiration of the fifteen years period neither Contracting Party notifies, in writing, the other Contracting Party of its intention to terminate this Agreement.

3. With respect to investments made prior the date of denunciation of this Agreement, the provisions of Article 1 to 12 shall remain in force for a further period of ten years from that date.

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

Done in Bratislava on July 21th 1994 in two originals in Slovak, Bulgarian and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF BULGARIA

FOR THE GOVERNMENT OF THE SLOVAK REPUBLIC: