AGREEMENT ON THE PROMOTION AND THE RECIPROCAL PROTECTION OF INVESTMENTS BETWEEN THE COUNCIL OF MINISTERS OF THE REPUBLIC OF ALBANIA AND THE GOVERNMENT OF THE REPUBLIC OF SAN MARINO

The Council of Ministers of the Republic of Albania and the Government of the Republic of San Marino hereinafter referred to as "the Contracting Parties",

Desiring to intensify their economic cooperation for the mutual benefit of both countries,

Intending to create favourable conditions for investments made by investors of each Contracting Party in the territory of the other Contracting Party, and

Conscious that the promotion and protection of investments under this Agreement will stimulate initiatives in this field,

Have agreed as follows:

Article 1. Definitions

For the purposes of the present Agreement:

1. The term "investment" means every kind of asset and in particular, although not exclusively, the following:

(a) movable and immovable property and any other property rights such as mortgages, liens, pledges and similar rights;

(b) shares in, stocks and debentures of, a or any other form of participation in a company or business enterprise and rights or interest derived therefrom;

(c) claims to money or to any performance under contract having economic value and associated with an invesmtnet;

(d) intellectual property rights, including rights with respect to copyrights, patents, trademarks, trade names, industrial designs, technical processes, trade secrets and know-how, and goodwill; and

(e) rights to undertake economic and commercial activities conferred by law or by virtue of a contract, including concessions to search for, cultivate, extract or exploit natural resources.

Investments made in the territory of one Contracting Party by any legal entity of that same Contracting Party which is actually owned or controlled by investors of the other Contracting Party shall likewise be considered as investments of the latter Contracting Party if they have been made in accordance with the laws and regulations of the former Contracting Party.

2. The term "investor" means with regard to either Contracting Party:

(a) natural persons having the citizenship of that Contracting Party in accordance with its law:

(b) legal entities constituted or incorporated or registered in compliance with the law of that Contracting Party including corporations, firms, partnerships or business associations;

who, in compliance with this are making investments in the territory of the other Contracting Party.

Any change in the form in which assets are invested or reinvested does not affect their character as investments.

3. The term "returns" means the amounts yielded by an investment and includes, in particular although not exclusively, profit, dividends, interest, capital gains, royalties and fees.

4. the term "territory" designates:

(a) With respect to the territory of the Republic of San Marino shall means the territory of the Republic of San Marino, including any area within, which in accordance with international law, the sovereign rights and the jurisdiction of San Marino may be exercised;

(b) With respect to the territory of the Republic of Albania shall mean the territory under the sovereignty of the Republic of Albania, including the territorial waters, as well as the maritime water and the continental shelf over which the Republic of Albania exercises in accordance with its national laws and regulations and international law, its sovereign and legal rights.

Article 2. Scope of Application

This Agreement shall apply to all investments made by investors of either Contracting Party, whether existing at or made after the date of its entry into force. It shall not, however, apply to disputes which have arisen before the entry into force of the present Agreement.

Article 3. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and create favorable conditions for investors of the other Contracting Party to make investments in its territory and shall admit such investments in accordance with its laws and regulations.

2. When a Contracting Party shall have admitted an investment in its territory it shall, in accordance with its laws and regulations, grant the necessary permits in connection with such an investment and with the carrying out of licensing agreements and contracts for technical, commercial or administrative assistance. Each Contracting Party shall, whenever needed, endeavour to issue the necessary authorizations concerning the activities of consultants and other qualified persons, regardless of their nationality.

3. Investments made by investors of one Contracting Party in the territory of the other Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security.

4. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment expansion or disposal of such investments.

5. The Contracting Parties are committed to simplify the forms and procedures of the process of promoting and protecting investment.

Article 4. National and Most Favoured Nation Treatment

1. Once a Contracting Party has admitted an investment in its territory in accordance with its laws and legislation, it shall accord to such investments made by the investors of the other Contracting Party treatment no less favourable than that accorded to investments of its own investors or of investors of any third State whichever is more favourable to the investor concerned.

2. Each Contracting Party shall in its territory accord to investors of the other Contracting Party, as regards their management, maintenance, use, enjoyment, expansion or disposal of their investment, treatment no less favourable than that accorded to its own investors or investors of any third State, whichever is more favourable to the investor concerned.

3. The provisions under paragraphs 1 and 2 of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party and their investments the benefit of any treatment, preference or privilege, resulting from:

a. membership to any existing or future customs union, economic union, monetary union or any other regional economic integration organization;

b. any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

4. The treatment referred to in paragraphs 1 and 2 of this Article will be granted on the basis of reciprocity.

5. Nothing in this Agreement shall prevent either Contracting Party from applying new measures adopted within the framework of one of the forms of regional cooperation referred to in paragraph 3(a) of this Article which replace the measures previously applied by that Contracting Party.

Article 5. Expropriation

1. Investments of investors of one Contracting Party shall not be nationalized, expropriated or subjected to measures having equivalent effect to nationalization or expropriation (hereinafter referred to as "expropriation") except for public interest, in accordance with due process of law, on a non discriminatory basis and against the payment of prompt, adequate and effective compensation.

2. Such compensation shall amount to the fair market value of the investment expropriated immediately before the expropriation or impending expropriation became public known, whichever is the earlier (hereinafter referred to as the "valuation date").

3. Such market value shall be calculated in a freely convertible currency at the market rate of exchange prevailing for that currency on the valuation date. Compensation shall include interest calculated on the basis of the 6-month LIBOR rate applicable of the date of expropriation, from the date of expropriation until the date of payment. Compensation shall be paid without delay, be effectively realizable and freely transferable.

4. The affected investors shall have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial authority or other competent and independent authority of that Contracting Party, of its case, including the valuation of its investments and the payment of compensation in accordance with the principles set out in this Article.

5. Where a Contracting Party expropriated the assets of a company which is incorporated or constituted under the law in force in any party of its own territory, and in which investors of the other Contracting Party own shares, it shall ensure that the provisions of this Article are applied to as to guarantee prompt, adequate and effective compensation in respect of their investment to such investors of the other Contracting Party who are owners of those shares.

Article 6. Compensation for Losses

1. Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer loses owing to war or other armed conflict, state of national emergency, revolution, insurrection, civil disturbance or any other similar event, shall be accorded by the latter Contracting Party, as regards restitution, indemnification, compensation or other settlement, treatment no less favorable than that which the latter Contracting Party accords to its own investors or to investors of any third State, whichever is more favorable to the investor concerned. Resulting payments shall be freely transferable.

2. Notwithstanding paragraph 1, an investor of one Contracting Party who, in any of the situations referred to in that paragraph, suffer losses in the territory of the other Contracting Party resulting from:

a. requisitioning of its investment or part thereof by the latter's forces or authorities; or

b. destruction of its investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation, shall be accorded by the latter Contracting Party restitution or compensation which in either case, shall be prompt, adequate and effective. Resulting payments shall be made without delay and be freely transferable.

Article 7. Transfers

1. Each Contracting Party shall guarantee to investors of the other Contracting Party the free transfer of all payments relating to their investment. Such transfers shall include, in particular though not exclusively:

a. net profit, capital gains, dividends, interest, royalties, fees and any other current income accruing from investments;

b. investment returns, as defined in Article 1;

c. funds in repayment of loans related to an investment;

d. compensation provided to Article 5 and 6;

e. proceeds from the total or partial sale or liquidation of an investment;

f. earnings and other remuneration of personnel engaged from abroad in connection with an investments;

g. payments arising of the settlement of a dispute.

2. Transfers under the present Agreement shall be made without undue delay in a freely convertible currency at the market rate of exchange prevailing on the date of transfer.

3. Notwithstanding paragraphs 1 and 2 above, a Contracting Party may adopt or maintain measures relating to cross-border

capital and payment transactions adopted by the European Commission and particularly but not limited by the following cases:

a. In the event of serious balance of payments and external financial difficulties or threat thereof; or

b. In cases where, in exceptional circumstances, movements of capital cause or threaten to cause serious difficulties for macroeconomic management, in particular, monetary and exchange rate policies; or

c. In the exceptional cases of economic sanctions.

4. Measures referred to in paragraph 3 of this

a. Shall not exceed those necessary to deal with the circumstances set out in paragraph 3 of this Article;

b. Shall be temporary and shall be eliminated as soon as conditions permit; and

c. Shall be promptly notified to the other Contracting Party

Article 8. More Favourable Terms

1. If the legislation of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain a regulation, whether general or specific, entitling investments by investors of the other Contracting Party to a treatment more favourable than that provided for by this Agreement, such regulation shall, to the extent that it is more favourable, prevail over this Agreement.

2. More favourable terms than those of this Agreement which have been agreed to by one of the Contracting Parties with investors of the other Contracting Party shall not be affected by this Agreement.

Article 9. Subrogation

1. If a Contracting Party or its designated agency makes a payment to its own investors under a guarantee or indemnity given in respect of investments in the territory of the State 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 State, of any rights or claims from investors to the former Contracting Party or its designated agency; and

b. That the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights of and enforce the claims of those investors.

2. The subrogated rights or claims shall not exceed the original rights or claims of the investor.

Article 10. Settlement of Disputes between the Contracting Parties

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

2. If it is not possible to settle the dispute in this way within six months from the start if negotiations, it shall be submitted, at the request of either of the two Contracting Parties, to an arbitral tribunal.

3. The arbitral tribunal shall be set up in the following way: each Contracting Party shall appoint one arbitrator and these two arbitrators shall select a national of a third country as Chairman. The arbitrators shall be appointed within three months and the Chairman within five months from the date on which either of the two contracting parties informed the other contracting party of its intention to submit the dispute to an arbitral tribunal.

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, invite the President of the International Court of Justice to make the 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 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 Contracting Party shall be invited to make the necessary appointments.

5. Chairman of the arbitral tribunal shall be a national of a third State with which both Contracting Parties maintain

diplomatic relations.

6. The arbitral tribunal shall issue its decision in accordance with the provisions of this Agreement, other relevant agreements in force between the Contracting Parties and the applicable rules and principles of international law.

7. Unless the Contracting Parties decide otherwise, the arbitral tribunal shall lay down its own procedure.

8. The arbitral tribunal shall reach its decision by a majority of votes and that decision shall be final and binding on both Contracting Parties.

9. Each Contracting Party shall bear the expenses of its own arbitrator and those connected with representing it in the arbitration proceedings. The other expenses, including those of the Chairman, shall be borne in equal parts by the two Contracting Parties.

Article 11. Disputes between One Contracting Party and Investors of the other Contracting Party

1. Disputes that may arise between one of the Contracting Parties and an investor of the other Contracting Parry with regard to an investment in the sense of the present Agreement, shall be notified in writing, including a detailed information by the investor to the former Contracting Party. As far as possible, the parties concerned shall endeavour to settle these disputes amicably.

2. If these disputes cannot be settled amicably within six months from the date of the written notification mentioned in paragraph 1, the dispute may be submitted, at the choice of the investor, to:

a) The competent court of the Contracting Party in whose territory the investment was made; or

b) an ad hoc arbitral tribunal to be established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL); or

c) any other arbitration institutions or ad-hoc arbitral tribunals agreed by the disputing parties; or the International Centre for Settlement of Investment Disputes (ICSID) established by the Convention of 18 March 1965 on the Settlement of Investment Disputes between States and Nationals of other States, in the event both Contracting Parties shall have become a party to the Convention.

through conciliation or arbitration established under the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature in Washington D.C. on 18 March 1965 (hereinafter referred to as "the Convention"), in the event both Contracting Parties shall have become a party to the Convention.

3. A company which is incorporated or constituted under the laws in force in the territory of one Contracting Party and in which before such dispute arises the majority of shares are owned by investors of the other Contracting Party, shall in accordance with Article 25 (2) (b) of the Convention be treated for the purpose of this Convention as the company of the other Contracting Party.

4. Neither Contracting Parry shall pursue through the diplomatic channels any dispute referred to the Centre unless:

a) The Secretary-General of the Centre, or a conciliation commission or an arbitral tribunal constituted by the Centre, decides that the dispute is not within die jurisdiction of the Centre; or

b) The other Contracting Party should fail to abide by or to comply with any award rendered by an arbitral tribunal.

5. The arbitration award shall be based on;

- The provisions of this Agreement;

- The laws of the Contracting Party in whose territory the investment has been made including the rules relative to conflict of laws; and

- The rules and universally accepted principles of international law.

6. The arbitration award shall be final and binding on both parties to the dispute and shall be executed according to the law of the Contracting Party concerned.

7. During the arbitral or execution proceedings Contracting Party shall not assert as a defence, objection, counterclaim, right of set-off or for any other reason, that indemnification or other compensation for all or part of the alleged damages has

been received or will be received by investor who is contending party, pursuant to an insurance or guarantee contract against political risks.

Article 12. Other Provisions

Either Contracting Party shall in accordance with its laws, regulations and administrative practices followed, examine in good faith applications for the entrance and stay of the investors, employees and workers of the other Party who are involved in activities connected with the investments.

Article 13. Entry Into Force, Duration and Termination

1. This Agreement shall enter into force on the date on which the Contracting Parties shall have notified each other that their respective constitutional formalities required for the entry into force of international agreements have been completed. It shall remain in force for an initial period of ten years and then be tacitly renewed for consecutive periods of two years.

2. This Agreement shall not prejudice the right of either of the Contracting Parties to amend in whole or in part or to terminate this Agreement at any time during its period of validity.

3. In such an eventuality, if the Contracting Parties do not reach agreement on any modification to or termination of this Agreement within six months after a written request by the Contracting Party seeking such modification or termination to the other Contracting Party, the Party that had made the said request shall be entitled to denounce the whole Agreement within thirty (30) days from the lapse of the said six (6) months period. Such denunciation shall be made through diplomatic channels and shall be considered as a notice of termination of this Agreement. In such a case the Agreement shall terminate six (6) months after the date of receipt of the said notice by the other Contracting Party unless such notice is withdrawn by mutual agreement before the expiry of this period of notice.

4. With respect to investments made prior to the date of amendment or termination of this Agreement, the provisions of all of the other Articles of this Agreement shall thereafter continue to be effective for a further period of ten years from that date.

IN WITNESS WHEREOF, the undersigned duly authorized hereto, have signed this Agreement.

DONE in ..... in two originals on the ..... in Albanian, Italian, and English language, all of which are equally authentic. In case of any divergence of interpretation the English text shall prevail.

FOR THE COUNCIL OF MINISTERS OF THE REPUBLIC OF ALBANIA

FOR THE GOVERNMENT OF THE REPUBLIC OF SAN MARINO