AGREEMENT BETWEEN THE CZECH REPUBLIC AND THE REPUBLIC OF TURKEY FOR THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Czech Republic and the Republic of Turkey (hereinafter referred to as "the Contracting Parties"),

Desiring to promote greater economic cooperation between them, particularly with respect to investments by investors of one Contracting Party in the territory of the other Contracting Party,

Recognizing that agreement upon the treatment to be accorded to such investments will stimulate the flow of capital and technology and the economic development of the Contracting Parties,

Agreeing that fair and equitable treatment of investments is desirable in order to maintain a stable framework for investments and maximum effective utilization of economic resources, and

Having resolved to conclude an agreement concerning the encouragement and reciprocal protection of investments,

Hereby agree as follows:

Article 1. Definitions

For the purpose of this Agreement;

1. The term "investor" means: (a) Natural persons deriving their status as nationals of either Contracting Party from its applicable law,

(b) Legal persons, such as corporations, firms or business associations incorporated or constituted under the law in force of either of the Contracting Parties and having their headquarters in the territory of that Contracting Party.

2. The term "investment" means direct investment, under the definition of the International Monetary Fund, invested by an investor of one Contracting Party in the territory of the other Contracting Party, provided that the investment has been made in accordance with the laws and regulations of the other Contracting Party, and shall include every kind of assets in particular, but not exclusively: (a) Shares in and stocks of a company and any other form of participation in companies,

(b) Returns reinvested, claims to money or any other rights having financial value related to an investment,

(c) Movable and immovable property and any other rights such as mortgages, liens, pledges,

(d) Intellectual property rights and industrial rights such as patents, trademarks, business names, technical processes, industrial designs, know-how and goodwill,

(e) Business concessions conferred by law or by contract, including the concessions related to natural resources.

3. The term "returns" means the amounts yielded by an investment and includes in particular, but not limited to, profit, interest, and dividends.

4. The term "territory" means: (a) In respect of the Czech Republic, the territory of the Czech Republic over which it exercises sovereignty, sovereign rights and jurisdiction in accordance with international law;

(b) In respect of the Republic of Turkey, its territory, territorial sea, as well as the maritime areas over which it has jurisdiction or sovereign rights for the purposes of exploration, exploitation and conservation of natural resources, pursuant to international law.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and create favourable 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. Investments of investors of each Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, extension, or disposal of such investments.

Article 3. National and Most-favoured-nation Treatment

1. Each Contracting Party shall in its territory accord to investments, once established, and returns of investors of the other Contracting Party treatment which is fair and equitable and not less favourable than that which it accords in similar situations to investments and returns of its own investors or to investments and returns of investors of any third State, whichever is more favourable.

2. Each Contracting Party shall in its territory accord to investors of the other Contracting Party, as regards management, maintenance, use, enjoyment or disposal of their investment, treatment which is fair and equitable and not less favourable than that which it accords to its own investors or to investors of any third State, whichever is more favourable.

3. Subject to the laws and regulations of the Contracting Parties relating to the entry, sojourn and employment of aliens;

(a) Nationals of either Contracting Party shall be permitted to enter and to remain in the territory of the other Contracting Party for the purpose of establishing, developing, administering or advising on the operation of an investment to which they, or an investor of the first Contracting Party that employs them, have committed and/or are in the process of committing the required amount of capital or required value of other resources,

(b) Companies which are legally constituted under the applicable laws and regulations of one Contracting Party and which are investments of investors of the other Contracting Party, shall be permitted to engage managerial and technical personnel of their choice, regardless of nationality.

4. The National Treatment and Most-Favoured-Nation Treatment provisions of this Article shall not apply to advantages accorded by a Contracting Party pursuant to its obligation as a member of customs, economic, or monetary union, a common market or a free trade area.

5. The Contracting Party understands the obligations of the other Contracting Party as a member of a customs, economic, or monetary union, a common market or a free trade area to include obligations arising out of an international agreement or reciprocity agreement of that customs, economic, or monetary union, common market or free trade area.

6. The provisions of this Agreement shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party, or to the investments or returns of such investors, the benefit of any treatment, preference or privilege which may be extended by the Contracting Party by virtue of any international agreement or arrangement relating wholly or mainly to taxation.

Article 4. Expropriation and Compensation

1. Investments shall not be expropriated, nationalized or subject, directly or indirectly, to measures of similar effects except for a public purpose, in a non-discriminatory manner, upon payment of prompt, adequate and effective compensation, and in accordance with due process of law and the general principles of treatment provided for in Article 2 of this Agreement.

2. Compensation shall be equivalent to the real market value of the expropriated investment before the expropriatory action was taken or became known. Compensation shall be paid without delay and be freely transferable in a convertible currency. In case of delay, the payment shall bear interest.

3. Investors of either Contracting Party whose investments suffer losses in the territory of the other Contracting Party owing to war, insurrection, civil disturbance or other similar events shall be accorded by such other Contracting Party treatment not less favourable than that accorded to its own investors or to investors of any third country, whichever is the most favourable treatment, as regards any measures it adopts in relation to such losses.

Article 5. Repatriation and Transfer

1. Without prejudice to measures adopted by the European Community, each Contracting Party shall permit in good faith all transfers related to an investment to be made freely and without delay into and out of its territory. Such transfers include in

particular but not limited to:

(a) Returns,

(b) Proceeds from the sale or liquidation of all or any part of an investment,

(c) Compensation pursuant to Article 4,

(d) Principal and interest payments deriving from loans in connection with investments,

(e) Salaries, wages and other remunerations received by the nationals of one Contracting Party who have obtained in the territory of the other Contracting Party the corresponding work permits relative to an investment,

(f) Payments arising from an investment dispute.

2. Transfers shall be made in the freely convertible currency in which the investment has been made or in any freely convertible currency if so agreed by the investor and at the prevailing market rate of exchange on the date of transfer.

Article 6. Subrogation

1. If the investment of an investor of one Contracting Party is covered against non-commercial risks under a system established by law, any subrogation of the guarantor or the insurer, which stems from the terms of a guarantee, a contract of. insurance or any other legal transaction between the investor and the guarantor or the insurer shall be recognized by the other Contracting Party.

2. The guarantor or the insurer is entitled by virtue of subrogation to exercise the rights and enforce the claims of that investor and shall assume the obligations related to the investment. The subrogated rights or claims shall not exceed the original rights or claims of the investor.

3. Disputes between a Contracting Party and a guarantor or an insurer shall be settled in accordance with the provisions of Article 8 of this Agreement.

Article 7. Consultation

The Contracting Parties agree to consult promptly, on the request of either Contracting Party, in order to prevent or to resolve any dispute in connection with the Agreement or to discuss any matter relating to the interpretation or application of the Agreement.

Article 8. Settlement of Disputes between One Contracting Party and Investors of the other Contracting Party

1. Disputes between one of the Contracting Parties and an investor of the other Contracting Party, in connection with the investment, shall be notified in writing by the investor to the recipient Contracting Party of the investment. The notification shall include detailed information about the dispute. As far as possible, the investor and the concerned Contracting Party shall endeavor to settle these disputes by consultations and negotiations in good faith.

2. If these disputes cannot be settled in this way within six months following the date of the written notification mentioned in paragraph 1, the dispute can be submitted, as the investor may choose, to:

(a) The competent court or administrative tribunal of the Contracting Party which is the party to the dispute;

(b) An ad hoc court of arbitration laid down under the Arbitration Rules of Procedure of the United Nations Commission for International Trade Law (UNCITRAL), the Parties to the dispute may agree in writing to modify these Rules;

(c) The International Center for Settlement of Investment Disputes (ICSID) set up by the "Convention on the Settlement of Investment Disputes between States and Nationals of Other States".

3. The arbitral tribunal shall decide on the basis of the law, taking into account all sources of the law in the following sequence:

(a) The provisions of this Agreement;

(b) Other relevant Agreements between the Contracting Parties;

(c) The national laws and regulations of the Contracting Party in whose territory the investment was made, including the rules related to conflicts of law;

(d) The provisions of special agreements relating to the investment.

4. Notwithstanding the provisions of paragraph 2 of this Article:

(a) Only the disputes arising in connection with an investment made in conformity with the relevant legislation or approved, under Article 2, and which has been effectively established, may be submitted to the International Center for Settlement of Investment Disputes (ICSID) or any other international dispute settlement mechanism as agreed upon by the Contracting Parties;

(b) The disputes, related to the property and real rights upon the real estates are totally under the jurisdiction of the national courts of the host Contracting Party and therefore shall not be submitted to jurisdiction of the International Center for Settlement of Investment Disputes (ICSID) or any other international dispute settlement mechanism; and

(c) With regard to the Article 64 of the "Convention on the Settlement of Investment Disputes between States and Nationals of other States":

The Republic of Turkey shall not accept the referral of any disputes arising between the Contracting Parties concerning the interpretation or application of "Convention on the Settlement of Investment Disputes between States and Nationals of other States", which is not settled by negotiation, to the International Court of Justice. 5. The arbitration awards shall be final and binding for all parties in dispute. Each Contracting Party commits itself to execute the award according to its national law.

Article 9. Settlement of Disputes between the Contracting Parties

1. The Contracting Parties shall seek in good faith and a spirit of cooperation a rapid and equitable solution to any dispute between them concerning the interpretation or application of this Agreement. In this regard, the Contracting Parties agree to engage in direct and meaningful negotiations to arrive at such solutions. If the Contracting Parties cannot reach an agreement within six months after the beginning of disputes between themselves through the foregoing procedure, the disputes may be submitted, upon the request of either Contracting Party, to an arbitral tribunal of three members.

2. Within three months of receipt of a request, each Contracting Party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator as Chairman, who is a national of a third State. In the event either Contracting Party fails to appoint an arbitrator within the specified time, the other Contracting Party may request the President of the International Court of Justice to make the appointment.

3. If both arbitrators cannot reach an agreement about the choice of the Chairman within two months after their appointment, the Chairman shall be appointed upon the request of either Contracting Party by the President of the International Court of Justice.

4. If, in the cases specified under paragraphs (2) and (3) of this Article, the President of the International Court of Justice is prevented from carrying out. the said function or if he is a national of either Contracting Party, the appointment shall be made by the Vice-President, and if the Vice-President is prevented from carrying out the said function or if he is a national of either Contracting Party, the appointment shall be made by the most senior member of the Court who is not a national of either Contracting Party.

5. The tribunal shall have three months from the date of the selection of the Chairman to agree upon rules of procedure consistent with the other provisions of this Agreement. In the absence of such an agreement, the tribunal shall request the President of the International Court of Justice to designate rules of procedure, taking into account the generally recognized rules of international arbitral procedure.

6. Unless otherwise agreed, all submissions shall be made and all hearings shall be completed within eight months of the date of selection of the Chairman, and the tribunal shall render its decision within three months after the date of the closing of the hearings or the final submissions, whichever occurs later.

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

8. Each Contracting Party shall bear the cost of its own member of the tribunal and of its representations in the tribunal arbitral proceedings; the cost of the chairman and the remaining costs shall be borne in equal parts by the Contracting Parties. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two

Contracting Parties.

9. A dispute shall not be submitted to an international arbitration court under the provisions of this Article, if the dispute in the same manner has been brought before arbitration court under the provisions of Article 8 and is still before the court. This will not impair the engagement in direct and meaningful negotiations between both Contracting Parties.

Article 10. Essential Security Interests

1. This Agreement shall not preclude the application by either Contracting Party of measures necessary for:

(a) The maintenance of public order,

(b) The fulfillment of its obligations with respect to the maintenance or restoration of international peace or security, or

(c) The protection of its own essential security interests which may include interests deriving from its membership of a customs, economic or monetary union, a common market or a free trade area.

2. If either Contracting Party takes any action or measures against the other Contracting Party in conformity with paragraph 1 (c) of this Article based on interests deriving from its membership of a customs, economic or monetary union, a common market or a free trade area, the other Contracting Party against whom such actions or measures were taken may take similar actions or measures against the first Contracting Party based on the principle of reciprocity. In such a circumstance, the investors of the first Contracting Party affected by such measures can not resort to international arbitration under Article 8 of this Agreement to get compensation for any losses suffered as a result of such measures.

Article 11. Scope of Application

The provisions of this Agreement shall apply to future investments made by investors of one Contracting Party in the territory of the other Contracting Party, and also to the investments existing in accordance with the laws of the Contracting Parties on the date this Agreement came into force. However, the provisions of this Agreement shall not apply to claims arising out of events which occurred, or to claims which had been settled, prior to its entry into force.

Article 12. Entry Into Force, Duration and Termination

1. Each Contracting Party shall notify the other in writing of the completion of the constitutional formalities required in its territory for the entry into force of this Agreement. This Agreement shall enter into force on the sixtieth day after the latter of the two notifications. It shall remain in force for a period of ten years and shall continue in force unless terminated in accordance with paragraph 2 of this Article.

2. Either Contracting Party may, by giving one year's written notice to the other Contracting Party, terminate this Agreement at the end of the initial ten-year period or at any time thereafter.

3. This Agreement may be amended by written agreement between the Contracting Parties. Any amendment shall enter into force after each Contracting Party has notified the other that it has completed all internal requirements for entry into force of such amendment.

4. With respect to investments made or acquired prior to the date of termination of this Agreement and to which this Agreement otherwise applies, the provisions of Articles 1-11 of this Agreement shall thereafter continue to be effective for a further period of ten years from the date of termination.

5. The Agreement between the Czech and Slovak Federal Republic and the Republic of Turkey for the Reciprocal Promotion and Protection of Investments, signed in Ankara on April 30, 1992, will be terminated on the date of entry into force of this Agreement.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Agreement.

DONE at ..... on the day of ..... in the Czech, Turkish and English languages all of which are equally authentic. In case of any conflict of interpretation, the English text shall prevail.

FOR THE CZECH REPUBLIC

FOR THE REPUBLIC OF TURKEY