Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Italian Republic on Mutual Encouragement and Protection of Investments

The Federal Government of the Federal Republic of Yugoslavia and the Government of the Italian Republic (hereinafter: the Contracting Parties),

Desiring to create favorable conditions for better economic cooperation between the two States, in particular with regard to the investment of an investor of one Party in the territory of the other Contracting Party, and

Conscious that the encouragement and protection of such investments, based on international agreements, will encourage entrepreneurial initiatives and thereby contribute to the faster progress of both Parties;

They agreed on the following:

Article 1. Definitions

1. The term "investment" means any type of assets that a citizen or legal entity of a Contracting Party invests in the territory of the other Contracting Party in accordance with the laws and regulations of the latter, regardless of the chosen legal form, and the legal framework.

Without limiting the general nature of the foregoing, the term "investment" will, in particular, but not exclusively, include:

(A) movable and immovable property and all other rights and remedies such as mortgages, pledges or guarantees;

(B) shares, bonds, share capital as well as other types of securities in general;

(C) cash receivables or any other claim for any type of service that has an economic value associated with investment, as well as for re-invested returns and capital gains;

(D) intellectual property rights, such as copyright and other related rights and industrial property rights, such as patents, licenses, trademarks, industrial design or models, as well as technical processes, "goodwill" and "know-how";

(E) economic and other rights deriving from concessions granted in accordance with the laws and regulations of the Contracting Party in whose territory the investment is made, including concessions for the exploration, extraction and use of natural resources;

(F) any increase in the initial investment value.

No change in the form in which the funds are invested will affect their character as an investment.

2. The term "investor" means a citizen or legal entity of a Contracting Party making investments in the territory of the other Contracting Party, as well as its affiliates and branches abroad;

(A) The term "national", when referring to one Contracting Party, means a natural person who holds the nationality of that Contracting Party in accordance with its laws;

(B) The term "legal person" means a legal entity established, established or otherwise legally organized in accordance with the laws and regulations of a Contracting Party which has its head office in that Contracting Party's territory and invests in the territory of the other Contracting Party.

3. The term "returns" means the amounts invested, including in particular the profit or interest, interest on income, capital gains, dividends, royalties or commission, technical service fees, and any other form of payment either in cash or in kind, In connection with investment.

4. The term "territory" means the area covered by the land borders as well as the airspace and seas, maritime and seabed zones on which the Contracting Party has sovereign rights and jurisdiction in accordance with its national laws and regulations and international law.

5. "Investment agreement" means an agreement between a Contracting Party (or its agency or institution) and an investor of the other Contracting Party.

"Investment Agreement" means an agreement between an investor of one Contracting Party and an investor of the other Contracting Party.

6. "Non-discriminatory treatment" means treatment that is at least as good as national treatment or treatment of the most relevant nation.

7. "Right of access" means the right of a Contracting Party to grant an investment in the territory of the other Contracting Party in accordance with its own laws.

Article 2. Promotion and Protection of Investment

1. Each Contracting Party shall encourage and create favorable conditions for investors of the other Contracting Party to make investments in its territory.

2. Investments by an investor of a Contracting Party shall enjoy a fair and equitable treatment, full protection and security in the territory of the other Contracting Party in accordance with Article 3 of this Agreement.

3. Each Contracting Party shall ensure that the management, maintenance, use, transformation, enjoyment or transfer of investments invested by other Parties to the territory of the Contracting Party, as well as the companies and undertakings in which such investments are made, are never in any way damaged by unjustified or discriminatory measures.

4. Each Party shall, in its territory, edit and maintain a legal framework which will guarantee its continuing continuity of legal treatment, including respect, in good faith, of all undertaken obligations relating to each individual investor.

Article 3. National Treatment and Most-favoured-nation Treatment

1. Each Contracting Party shall grant to all investments and returns on investments in its territory a treatment which shall not be less favorable than the one who awards it to the investments they make and the returns earned by its own investors or investors of any third country.

2. Each Party shall, in its territory, provide investors of the other Contracting Party with regard to their management, maintenance, use, enjoyment or disposal of their investments, treatment which is no less favorable than that accorded to its own investors or investors of any third country, depending on that Which is more favorable.

3. In the event that the legislation of either Contracting Party or the international obligations of one of the Contracting Parties in force or may take effect in the future creates a legal framework in accordance with which investors of one Contracting Party should obtain a more favorable treatment than the one provided by this Agreement, such treatment provided to investors of other parties shall also be provided to the investors of the respective Contracting Party.

4. Provisions of para. 1, 2 and 3 of this Article shall not be construed so as to oblige one Contracting Party to give investors of the other Contracting Party any advantage in the treatment, preferences or privileges which the first Party may grant to third country investors on the basis of:

(1) membership in an economic union, a customs union, a free trade zone, a monetary union, or a similar international treaty establishing such Union or establishing other forms of international cooperation, the signatory of which is or may be made by any of the Contracting Parties, or

(2) any international agreement or arrangement which, in whole or in part, concerns the avoidance of double taxation or the facilitation of local border trade.

Article 4. Compensation for Losses

1. If an investor of one Contracting Party in the territory of the other Party of the Contracting Party suffers damage or loss arising from war, other armed conflicts, state of emergency, insurrections or similar events, the Contracting Party in whose territory the investment has been made shall provide adequate compensation for such losses and damages, whether these losses or damages were caused by government forces or other entities. The fee will be freely transferable without undue

delay.

2. Investors shall, as referred to in paragraph 1 of this article, be provided with a treatment that will not be less favorable than that which the Contracting Party in whose territory the losses or damages have been incurred shall be provided to its own investors or investors of any third country, with Special emphasis on compensation for damages.

Article 5. Nationalization and Expropriation

1. Investments by investors of any Contracting Party shall not be nationalized, expropriated nor subjected to measures of equal nationalization (hereinafter referred to as "expropriation") in the territory of the other Contracting Party other than in the public interest. The expropriation will be carried out with the application of the law, on a non-discriminatory basis, with the appropriate compensation that will be made without undue delay. Such compensation will correspond to the market value of an expropriated investment immediately before the expropriation or before the forthcoming expropriation became a widely known fact, depending on what had happened earlier; Will include interest accrued until the payment date and will be paid without undue delay and freely transferable.

2. In case it is subject to nationalization or expropriation or similar joint venture, the investor's investment will be assessed in the currency in which it is invested.

The fee shall be deemed to be fair and equitable if it is paid in the currency in which the foreign investor has made an investment or in any other currency accepted by the investor.

The fee will be paid without undue delay, within a period not longer than 3 months from the date when the decision on its value was made.

The fee will include interest calculated on the basis of LIBOR at the six-month level, from the date of nationalization or expropriation until the date of payment.

3. The injured investor shall have the right, in accordance with the laws and regulations of the Party of the Expropriating Party, to require that the judicial or other independent body of that Contracting Party carry out an immediate review of his case and the valuation of his investment in accordance with the principles defined in this Article.

4. If the investor and the competent body can not reach an agreement, the amount of compensation shall be determined according to the dispute settlement procedure in accordance with Article 9 of this Agreement. The fee will be freely transferable.

5. In the event that the Contracting Party and the investor can not reach an agreement during nationalization or expropriation, the fee shall be based on the same parameters and exchange rates that are taken into account in the documents on the basis of which the investment was made. On such a fee, the exchange rate prevailing on the day immediately prior to the publication of nationalization or expropriation will apply.

6. If expropriated property, in whole or in part, does not serve the intended purpose in the public interest, in accordance with the law based on the expropriation law, the expropriated owner or his successor is authorized to buy that property at market value on the basis of reciprocity.

Article 6. Repatriation of Capital, Profit and Income

1. Each Party shall ensure that investors of the other Contracting Party may, after paying the fiscal and other obligations of investors, separately, but not exclusively, freely transfer abroad without undue delay, as follows:

(A) capital and additional capital including reinvested income used to maintain and increase capital;

(B) net income, dividends, royalties, payment of assistance and technical services, interest and other profits;

(C) income arising from full or partial sale or complete or partial liquidation of investments;

(D) funds from the repayment of loans in connection with the investment and payment of interest;

(E) benefits and payments to the nationals of a Contracting Party for work and services made in connection with an investment made in the territory of the other Contracting Party, in the amount and in the manner prescribed by national laws and applicable regulations;

(F) payments in connection with Art. 7, 8 and 9 of this Agreement.

2. All transfers provided for in this Agreement shall be executed without undue delay and, in any case, within six months from the date on which the investor filed a request in that connection. The aforementioned transfers shall be made in any of the convertible currencies according to the prevailing exchange rate applicable on the day the applicant submits a transfer request, with the exception of the provision in paragraph 2 of Article 5 relating to the exchange rate applicable in the event of nationalization or expropriation.

3. Fiscal obligations shall be deemed to have been made when the investor has completed the procedure provided for by the law of the Contracting Party in whose territory the investment was made.

Article 7. Subrogation

1. If a Contracting Party or its designated institution makes payments to its own investors under a guarantee granted for investment in the territory of the other Contracting Party, the other Contracting Party shall recognize:

(1) the assignment of investor rights to the first Contracting Party;

(2) that the first Party or its prominent institution is authorized to exercise such rights and realize such claims on the basis of subrogation and shall take on the obligations relating to the investment.

2. Subrogated rights and claims, as set forth in paragraph 1 of this Article, shall not exceed the original rights or claims of investors.

3. Subrogation of the rights and obligations of the insured investor shall apply to the transfer of payments made in accordance with Art. 4, 5 and 6 of this Agreement.

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

1. Any dispute between one of the Parties and the investor of the other Contracting Party in respect of investments, including disputes in respect of the amount of compensation, shall be resolved, if possible, through consultations or negotiations.

2. In the event that an investor and a Contracting Party have an investment agreement, the dispute settlement procedure provided for in this investment agreement, established in accordance with this Agreement and the legislation of the said Party, shall apply.

3. If such a dispute can not be resolved as in paragraph 1 within six months from the date of submission of the written request for its resolution, the investor may, at his option, submit a dispute to the resolution:

(A) a court of the Contracting Party having territorial jurisdiction;

(B) an ad hoc arbitration tribunal, in accordance with the Arbitration Rules of the United Nations Commission for International Trade (UNCITRAL), and the host Party that assumes the obligation to accept the appeal to the said arbitral tribunal;

(C) the International Center for the Settlement of Investment Disputes, to conduct an arbitration procedure in accordance with the Convention on the settlement of investment disputes between States and nationals of other States, opened for signature in Washington on 18 March 1965, in the event that both Parties to the Convention.

4. Both Parties shall refrain from negotiating diplomatically on any matter which is the subject of arbitration or legal proceedings pending their termination, unless either of the Parties has applied the decision of the arbitral tribunal or the court within the time limit set by a tribunal decision, or A period that can be determined in accordance with international or domestic legal regulations applicable to the case.

Article 9. Dispute Settlement between the Parties

1. Any dispute arising between the Parties in respect of the interpretation or application of this Agreement shall be settled, if possible, in a friendly manner, through consultations or negotiations.

2. If a dispute can not be resolved within six months of the date on which one Contracting Party has sent a notice to the other Contracting Party, the dispute shall, at the request of one of the Contracting Parties, be sent to an ad hoc arbitration tribunal as provided for in this Article.

3. The arbitral tribunal shall be established within two months of the receipt of the request for arbitration, each Contracting Party shall appoint one arbitrator. The President will be appointed within three months from the date of the appointment of two arbitrators.

4. If such appointments are not made during the periods specified in paragraph 3 of this Article, both Parties and the other Contracting Party may, in the absence of any other arrangement, invite the President of the International Court of Justice to perform these appointments. If the President is a national of either of the Contracting Parties or if he is prevented from performing other appointments for some other reason, the Vice-President shall be asked to do so. If the Vice-President is a national of one of the Contracting Parties or if he is otherwise prevented from performing the appointment, following the seniority of a member of the International Court of Justice, who is not a national of either Contracting Party, he shall be required to make appointments.

5. The arbitral tribunal shall issue judgments by a majority of votes, and its judgments shall be binding. Each Contracting Party shall bear the costs of its own arbitrator and its participation in the work of the court. The expenses of the President and all other costs of the Contracting Party shall be borne equally. The arbitral tribunal will determine its own rules of court proceedings.

Article 10. Relations between the Parties

The provisions of this Agreement shall apply regardless of whether the Contracting Parties have or do not have diplomatic or consular relations.

Article 11. Implementation of the Agreement

1. The provisions of this Agreement shall apply to investments made by an investor of a Contracting Party incurred before, and after the date of entry into force of this Agreement, and shall apply from the date of entry into force of this Agreement.

2. When the matter is regulated simultaneously by this Agreement and by any other international agreement, signed by both Contracting Parties or by general provisions of International Law, the most favorable provisions shall apply to the Parties and their investors.

3. Where a treatment which one Contracting Party gives to investors of the other Party of the Contracting Party in accordance with its laws and regulations or other provisions or a special agreement or authorizations for investments or agreements more favorable than the treatment provided for in this Agreement, the most favorable treatment shall be applied.

4. When, after the date of the investment, some changes in the legislation of one of the Parties, which either directly or indirectly regulate the investment, shall be made by the investor at the request of the same treatment that was applied at the time when the investment was made.

Article 12. Consultations

Representatives of the Parties shall, when necessary, carry out consultations on matters relating to the application of this Agreement. All consultations shall be made at the proposal of one of the Parties, at a time and place agreed by diplomatic channels.

Article 13. Entry Into Force of the Agreement

This Agreement shall enter into force on the date of the last of two written communications by which the two Contracting Parties notify each other that their internal procedures relating to the entry into force have been completed.

Article 14. Duration and Termination of the Agreement

1. This Agreement shall remain in force for a period of 10 years from the date of notification in accordance with Article 13, and thereafter it shall be extended for a period of ten years, unless either Party agrees to notify in writing the other Contracting Party of its decision to terminate this Agreement, and at least one year before the date of its termination.

2. With respect to investments made before the expiry date, as provided for in paragraph 1 of this Article, the provisions of Art. 1 to 12 shall remain in force for a further period of five years from the dates mentioned above.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed this Agreement.

Done at Rome on 11.12.2000. In two originals, in Serbian, Italian and English, each text is equally authentic. In the case of a difference in interpretation, the English text will prevail.

For the Federal Government of the Federal Republic of Yugoslavia

Goran Svilanović, s.r.

For the Government of the Italian Republic

Lamberto Dini, s.r.

Protocol on the signing of the agreement between the federal government of the federal republic of yugoslavia and the government of the italian republic on the mutual promotion and protection of investments

The Parties also agreed on the following clauses, which will be considered as an integral part of the Agreement.

1. With Reference to Article 1

The provisions of this Agreement shall also apply to all investment activities.

These activities include, but not exclusively, the organization, supervision, operation, maintenance and deployment of companies, affiliates, agencies, offices, factories or other organizations for conducting business; Procurement, use, protection and disposal of all types of property including intellectual property; Lending funds; Purchase, sale and sale of shares and other securities; And the purchase of foreign currency for imports.

2. With Reference to Article 2

A) Each Contracting Party shall provide effective means of settled claims and realized rights in respect of investment and investment agreements.

B) In accordance with its laws and regulations, each Party shall, as far as possible, regulate matters relating to the entry, residence, operation and movement of nationals of the other Contracting Party undertaking activities related to investments under this Agreement and members of their families on its behalf Territories.

C) Legal entities constituted in accordance with the applicable laws or regulations of a Contracting Party which are held or controlled by investors of the other Contracting Party shall be permitted to engage top management personnel of their choice, regardless of nationality, in accordance with the legislation of the Contracting Party which host.

3. With Respect to Article 3

All activities related to the provision, sale and transport of raw and processed materials, energy, fuels and production assets, as well as other types of operations related to them and related to investment activities under this Agreement, in the territory of the other Contracting Party, will receive treatment that will not be less More favorable than that given to similar activities and initiatives undertaken by investors of the Host Party and third country investors.

4. With Respect to Article 5

Any measures taken in respect of an investment that deprives financial resources or other assets of investment or causes significant damage to the value of the same investment undertaken in the public interest shall be deemed to be one of the measures referred to in paragraph 1 of Article 5.

5. With Regard to Article 8

In Article 8 (3) (b), the arbitration shall be conducted in accordance with the arbitration standards of the United Nations Commission on International Trade (UNCITRAL) and in accordance with the following provisions:

(A) The arbitral tribunal shall be composed of three arbitrators: if they are not nationals of either Contracting Party, they shall be nationals of a country having diplomatic relations with both Contracting Parties.

The appointment of arbitrators, when required, in accordance with the UNCITRAL Rules, will be conducted by the President of the Arbitration Institute of the Stockholm Chamber, in the capacity of a designated person. Arbitration will take place in Stockholm, unless the two parties to the arbitration dispute agree otherwise.

(B) When awarding judgments, the Arbitral Tribunal shall in any case apply the provisions contained in this Agreement, as well as the principles of international law recognized by the two Contracting Parties.

Recognition and application of an arbitration award in the territory of the Parties shall be governed by their national legislation in relation to this, in accordance with relevant international conventions to which they are parties.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed this Protocol.

Done at Rome on 11.12.2000. In two originals, in Serbian, English and Italian, with all texts being equally authentic.

In the case of a difference in interpretation, the English text will prevail.

For the Federal Government of the Federal Republic of Yugoslavia

Goran Svilanović, s.r.

For the Government of the Italian Republic

Lamberto Dini, s.r.