AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE CZECH AND SLOVAK FEDERAL REPUBLIC FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Czech and Slovak Federal Republic and the United Kingdom of Great Britain and Northern Ireland

Desiring to create favorable conditions for the development of investments by investors of one State in the territory of another State;

Recognizing that the promotion and reciprocal protection of such investments provided by the international agreement will contribute to stimulate entrepreneurial initiative and encourage the development of economic relations between the two countries;

Acting in the spirit of the principles of the Final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki on 1 August 1975;

Have agreed as follows:

Article 1. Definitions

Definitions For the purposes of this Agreement:

a) "investment" means every kind of asset belonging to an investor of one Contracting Party in the territory of the other Contracting Party under the law in force of the latter Contracting Party in any sector of economic activity and in particular, though not exclusively, includes:

(I) movable and immovable property and any other related property rights, including mortgages, liens or pledges;

(ii) shares in and stock and debentures of a company and any other form of participation in a company;

(iii) claims to money or to any performance under contract having a financial value;

(iv) intellectual property rights, goodwill, know-how and technical processes;

(v) business concessions conferred by law or, where appropriate under the law of the Contracting Party concerned, under contract, including concessions to search for, cultivate, extract or exploit natural resources.

A change in the form in which assets are invested does not affect their character as investments within the meaning of this Agreement. The term "investment" includes all investments, whether made before or after the date of entry into force of this Agreement;

(b) the term" returns" means the amounts yielded by an investment and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and the tern" investors" means:

c) the term "investor" means:

(I) as regards the Czech and Slovak Federal Republic:

(aa) all legal entities established under Czechoslovak law;

(bb) all natural persons who, according to Czechoslovak law, are Czechoslovak citizens and have the right to act as investors;

(ii) as regards the United Kingdom:

(aa) physical persons deriving their status as United Kingdom nationals from the law in force in the United Kingdom;

(bb) corporations, firms and associations incorporated or constituted under the law in force in any part of the United Kingdom or in any territory to which this Agreement is extended in accordance with the provisions of Article 12;

d) the term "territory" means:

(i) in respect of the Czech and Slovak Federal Republic: the territory of the Czech and Slovak Federal Republic;

(ii) in respect of the United Kingdom: Great Britain and Northern Ireland, including the territorial sea and any maritime area situated beyond the territorial sea of the United Kingdom which has been or might in the future be designated under the national law of the United Kingdom in accordance with international law as an area within which the United Kingdom may exercise rights with regard to the seabed and subsoil and the natural resources and any territory to which this Agreement is extended in accordance with the provisions of Article 12.

Article 2. Promotion and Protection of Investment

(1) Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to invest capital in its territory, and, subject to its right to exercise powers conferred by its laws, shall admit such capital.

(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 or disposal of investments in its territory of investors of the other Contracting Party.

(3) Investors of one Contracting Party may conclude with the other Contracting Party specific agreements, the provisions and effect of which, unless more beneficial to the investor, shall not be at variance with this Agreement. Each Contracting Party shall, with regard to investments of investors of the other Contracting Party, observe the provisions of these specific agreements, as well as the provisions of this Agreement.

Article 3. National Treatment and Most Favoured Nation Provisions

(1) Each Contracting Party shall ensure that under its law investments or returns of investors of the other Contracting Party are granted treatment not less favourable than that which it accords to investments or returns of its own investors or to investments or returns of investors of any third State.

(2) Each Contracting Party shall ensure that under its law investors of the other Contracting Party, as regards their management, maintenance, use, enjoyment or disposal of their investments, are granted treatment not less favourable than that which it accords to its own investors or to investors of any third State.

Article 4. Compensation for Losses

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to any armed conflict, a state of national emergency, or civil disturbances in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, no 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.

Article 5. Expropriation

(1) Investments of investors of either Contracting Party shall not be nationalised, expropriated or subjected to measures having effect equivalent to nationalisation or expropriation (hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for a public purpose related to the internal needs of that Party on a non-discriminatory basis and against prompt, adequate and effective compensation.

Such compensation shall amount to the genuine value of the investment expropriated immediately before the expropriation or before the impending expropriation became public knowledge, 'whichever is the earlier, shall include interest at a normal commercial rate until the date of payment, shall be made without delay, be effectively realisable and be freely transferable. The investor affected shall have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Party, of his or its case and of the valuation of his or its investment in accordance with the principles set out in this paragraph.

(2) The provisions of paragraph (1) shall also apply where a Contracting Party expropriates the assets of a company which is incorporated or constituted under the law in force in any part of its own territory, and in which investors of the other Contracting Party own shares.

Article 6. Repatriation of Investment and Returns

Each Contracting Party shall in respect of investments guarantee to investors of the other Contracting Party the unrestricted transfer of their investments and returns. Transfers shall be effected without delay in the convertible currency in which the capital was originally invested or in any other convertible currency agreed by the investor and the Contracting Party concerned. Unless otherwise agreed by the investor transfers shall be made at the rate of exchange applicable on the date of transfer pursuant to the exchange regulations in force.

Article 7. Exceptions

The provisions of this Agreement relative to the grant of treatment not less favourable than that accorded to the investors of either Contracting Party or of any third State shall not be construed so as to oblige one Contracting Party to extend to the investors of the other the benefit of any treatment, preference or privilege resulting from:

(a) any exisiting or future customs or economic union or similar international agreement to which either of the Contracting Parties is or may become a Party, or

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

Article 8. Settlement of Disputes between an Investor and a Host State

(1) Disputes between an investor of one Contracting Party and the other Contracting Party concerning an obligation of the latter under Articles 2(3), 4, 5 and 6 of this Agreement in relation to an investment of the former which have not been amicably settled shall, after a period of four months from written notification of a claim, be submitted to arbitration under paragraph (2) below if either party to the dispute so wishes.

(2) Where the dispute is referred to arbitration, the investor concerned in the dispute shall have the right to refer the dispute either to:

(a) an arbitrator or ad hoc arbitral tribunal to be appointed by a special agreement or established and conducted under the Arbitration Rules of the United Nations Commission on International Trade Law; the parties to the dispute may agree in writing to modify these Rules, or

(b) the Institute of Arbitration of the Chamber of Commerce of Stockholm, or

(c) the Court of Arbitration of the Federal Chamber of Commerce and Industry in Vienna.

(3) The arbitrator or arbitral tribunal to which the dispute is referred under paragraph (2) shall, in particular, base its decision on the provisions of this Agreement.

Article 9. Disputes between the Contracting Parties

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, if possible, be settled amicably.

(2) If a dispute between the Contracting Parties cannot thus be settled, 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 two months of 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, invite the President of the International Court of Justice 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 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) The tribunal shall determine its own procedure. The arbitral tribunal shal1 reach its decision by a majority of votes. Such decision shall be 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. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting Parties, and this award shall be binding on both Contracting Parties.

Article 10. Subrogation

(1) If one Contracting Party or its designated Agency (" the first Contracting Party") makes a payment under an indemnity given in respect of an investment in the territory of the other Contracting Party ("the second Contracting Party"), the second Contracting Party shall recognise:

(a) the assignment to the first Contracting Party by law or by legal transaction of all the rights and claims of the party indemnified, and

(b) that the first Contracting Party is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as the party indemnified.

(2) The first Contracting Party shall be entitled in all circumstances to:

(a) the same treatment in respect of the rights and claims acquired by it by virtue of the assignment, and

(b) any payments received in pursuance of those rights and claims, as the party indemnified was entitled to receive by virtue of this Agreement in respect of the investment concerned and its related returns.

(3) Any payments received in non-convertible currency by the first Contracting Party in pursuance of the rights and claims acquired shall be freely available to the first Contracting Party for the purpose of meeting any expenditure incurred in the territory of the second Contracting Party.

Article 11. Application of other Rules

If the provision of law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to the present Agreement contain rules, 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 rules shall to the extent that they are more favourable prevail over the present Agreement.

Article 12. Territorial Extension

At the time of entry into force of this Agreement, or at any time thereafter, the provisions of this Agreement may be extended to such territories for whose international relations the Government of the United Kingdom are responsible as may be agreed between the Contracting Parties in an Exchange of Notes.

Article 13. Entry Into Force

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 date of the later of the two notifications.

Article 14. Duration and Determination

This Agreement shall remain in force for a period of ten years. Thereafter it shall continue in force until the expiration of twelve months from the date on which either Contracting Party shall have given written notice of termination to the other. Provided that in respect of investments made whilst the Agreement is in force, its provisions shall continue in effect with respect to such investments for a period of fifteen years after the date of termination and without prejudice to the application thereafter of the rules of general international law.

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

DONE at Prague, this Tenth day of July 1990 in duplicate, in the English and Czech and languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

Nicholas Ridley

State Secretary for Trade and Industry of the United Kingdom of Great Britain and Northern Ireland

For the Government of the Czech and Slovak Federal Republic:

Vaclav Klaus

Finance Minister of Czechoslovakia

PROTOCOL RELATING TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE CZECH AND SLOVAK FEDERAL REPUBLIC FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

On the signature of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Czech and Slovak Federal Republic for the Promotion and Protection of Investments the signatories below being duly authorised thereto by their respective Governments, have agreed as follows:

"The provisions of Article 6 of the Agreement shall be applied, in respect of the Czech and Slovak Federal Republic, so that unrestricted transfer of payments relating to returns and loan repayments, shall only be permitted in anyone year up to a maximum of 20% of the value of the investment of the investor of the United Kingdom, that value being the value of the investment at the date of the admission of the investment to the Czech and Slovak Federal Republic.

All transfers effected from the convertible currency account of a company in which an investor owns shares are excluded from the above mentioned restriction."

This Protocol shall form an integral part of the above mentioned Agreement. Unless the Contracting Parties agree in writing on an earlier term, the validity of this Protocol will be terminated on 31 December 1994.

Done at Prague this Tenth day of July in duplicate in the English and the Czech languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

Nicholas Ridley

State Secretary for Trade and Industry of the United Kingdom of Great Britain and Northern Ireland

For the Government of the Czech and Slovak Federal Republic:

Vaclav Klaus

Finance Minister of Czechoslovakia