AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE REPUBLIC OF MACEDONIA FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Republic of India and the Government of the Republic of Macedonia (hereinafter referred to as the "Contracting Parties");

Desiring to create conditions favourable for fostering greater investment by investors of one Contracting Party in the territory of the other Contracting Party;

Recognising that the encouragement and reciprocal protection under international agreement of such investment will be conducive to the stimulation of individual business initiative and will increase prosperity in both the countries;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" means every kind of asset established or acquired, including changes in the form of such investment, by an investor of one Contracting Party in the territory of the other Contracting Party, in accordance with the national laws of the Contracting Party in whose territory the investment is made and in particular, though not exclusively, includes:

a) Movable and immovable property, as well as other rights such as mortgages, liens or pledges;

b) Shares in, stock and debentures of a company and any other similar forms of participation in a company;

c) Rights to money or to any performance under contract having a financial value;

d) Intellectual property rights including, inter alia, copyrights, trade marks, patents, industrial property rights, know-how or goodwill in accordance with the relevant laws of the respective Contracting Party;

e) Business concessions conferred by law or under contract, including concessions to search for and extract oil and other minerals.

2. The term "investor" means any natural or legal person of one Contracting Party that invests in the territory of the other Contracting Party.

a) "natural person" with respect to either Contracting Party, means any national of the either Contracting Party who derives its status from the law in force in the respective Contracting Party;

b) "legal person" with respect to either Contracting Party, means any legal person including enterprises, companies, corporations, business association and/or organisations established, incorporated or organised in accordance with the respective legislation of either Contracting Party and having their seat in the territory of that Contracting Party.

3. The term "returns" means the monetary amounts yielded by an investment such as profit, interest, capital gains, dividends, royalties and fees.

4 The term "territory" means:

a) In respect of the Republic of India: the territory of the Republic of India including its territorial waters and the airspace above it and other maritime zones including the Exclusive Economic Zone and continental shelf over which the Republic of India has sovereignty, sovereign rights or exclusive jurisdiction in accordance with its laws in force, the l982 United Nations

Convention on the Law of the Sea and international law;

b) In respect of the Republic of Macedonia: the territory of the Republic of Macedonia, including land, water and airspace, over which the Republic of Macedonia exercises sovereignty, sovereign rights and jurisdiction over such rights in accordance with international law.

Article 2. Scope of the Agreement

This Agreement shall apply to all investments made by investors of either Contracting Party in the territory of the other Contracting Party, accepted as such in accordance with its laws and regulations, whether made before or after the coming into force of this Agreement.

Article 3. Promotion and Protection of Investment

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

(2) Each Contracting Party shall protect within its territory, investments made in accordance with its laws and regulations by investors of the other Contracting Party and shall not impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, sale and disposal of such investments.

(3) Investments and returns of investors of either Contracting Party shall at all times be accorded fair and equitable treatment in the territory of the other Contracting Party.

Article 4. National Treatment and Most-favoured-nation Treatment

(1) Each Contracting Party shall accord to investments of investors of the other Contracting Party, treatment which shall not be less favourable than that accorded either to investments of its own or investments of investors of any third State.

(2) In addition, each Contracting Party shall accord to investors of the other Contracting Party, including in respect of returns on their investments, treatment which shall not be less favourable than that accorded to investors of any third State.

(3) The provisions of paragraphs (1) and (2) above 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) Its membership of, or association with any existing or future economic, monetary or customs union, common market, free trade area or similar international agreement to which it is or may become a party, or

b) Any matter relating wholly or mainly to taxation, including the agreements for avoidance of double taxation.

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, in accordance with law, on a non-discriminatory basis and against fair and equitable compensation. Such compensation shall amount to the market value of the investment expropriated immediately before the expropriation or before the impending expropriation became public knowledge, whichever is the earlier. The compensation shall include interest calculated on the annual LIBOR basis from the date of expropriation to the date of payment. The amount of compensation shall be settled in the convertible currency, it shall be freely transferable and paid without undue delay.

(2) The investor affected shall have right, under the law of the Contracting Party making the expropriation, to review, by a judicial or other competent 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. The Contracting Party making the expropriation shall make every endeavour to ensure that such review is carried out promptly.

(3) Where a Contracting Party expropriates the assets of a legal person which is established , 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, it shall ensure that the provisions of paragraph (1) of this Article are applied to the extent necessary to ensure fair and equitable 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

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, a state of national emergency, insurrection, revolt, riot 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 transferable without undue delay, in the convertible and freely transferable currency.

Article 7. Repatriation of Investment and Returns

(1) Each Contracting Party in whose territory investments have been made, shall grant all funds of the investors of the other Contracting Party relating to their investments in its territory, to be freely transferred, without unreasonable delay and on a non-discriminatory basis. Such funds may include:

a) Capital and additional capital amounts used to maintain and increase investments;

b) Net operating profits including capital gains, dividends and interest in proportion to their share-holdings;

c) Repayments of any loan including interest thereon, relating to the investment;

d) Payment of royalties and services fees relating to the investment;

e) Proceeds from sales of their shares;

f) Proceeds received by investors in case of sale or partial sale or liquidation;

g) The earnings of citizens/nationals of one Contracting Party who work in connection with investment in the territory of the other Contracting Party.

(2) Unless otherwise agreed to between the parties, currency transfer under aragraph (1) of this Article shall be permitted in the currency of the original P 5 investment or any other convertible currency. Such transfer shall be made at the applicable market rate of exchange on the date of transfer, in accordance with the procedures established by the Contracting Party in whose territory the investment was made, provided that all financial obligation towards this Contracting Party have been fulfilled.

Article 8. Subrogation

If one Contracting Party or its designated agency has guaranteed any indemnity against non-commercial risks in respect of an investment by any of its investors in the territory of the other Contracting Party and has made payment to such investors in respect of their claims under this Agreement, the other Contracting Party agrees that the first Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights and assert the claims of those investors. The subrogated rights or claims shall not exceed the original rights or claim of such investors.

Article 9. Settlement of Disputes between an Investor and a Contracting Party

(1) Disputes between one of the Contracting Parties and an investor of the other Contracting Party shall be notified in writing, including detailed information, by the investor to the Contracting Party in whose territory the investment was made.

(2) Any dispute between an investor of one Contracting Party and the other Contracting Party in relation to an investment of the former under this Agreement shall, as far as possible, be settled amicably through negotiations between the parties to the dispute.

(3) Any such dispute which has not been amicably settled within a period of six months from the date of the written notification, may be submitted:

(a) For resolution, in accordance with the law of the Contracting Party which has admitted the investment to that Contracting Party's competent judicial, arbitral or administrative bodies; or

(b) To International conciliation under the Conciliation Rules of the United Nations Commission on International Trade Law, if both parties agree; or

(c) To the International Centre for the Settlement of Investment Disputes (ICSID), if the Contracting Party of the investor and the other Contracting Party are both parties to the Convention on the Settlement of Investment Disputes between States and Nationals of the other States, 1965;or

(d) To an "ad hoc" arbitral tribunal established in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL), 1976, subject to the following:

– The appointing authority under Article 7 of the Rules shall be the President, the Vice-President or the next senior Judge of the International Court of Justice, who is not a national of either Contracting Party. The third arbitrator shall not be a national of either Contracting party.

– The parties shall appoint their respective arbitrators within two months.

– The arbitral tribunal shall state the basis of its decision and give reasons upon a request of either party.

(4) The arbitration award shall be based on:

a) The provisions of this Agreement;

b) The national law of the Contracting Party in whose territory the investment was made;

c) The rules and the universally accepted principles of international law.

(5) The arbitral award shall be final and binding for the parties to the dispute. Each Contracting Party undertakes to execute the decisions in accordance with its national law.

Article 10. 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 consultations and negotiations, through diplomatic channels.

(2) If a dispute between the Contracting Parties cannot thus be settled within six months from the time the dispute arose, 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 arbitral tribunal shall reach its decision by a majority of votes. Such decisions shall be final and binding on both Contracting Parties. 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 final and binding on both Contracting Parties. The tribunal shall determine its own procedures.

Article 11. Entry and Sojourn of Personnel

A Contracting Party shall, subject to its laws in force, relating to the entry and sojourn of non-citizens, permit natural persons of the other Contracting Party and personnel employed by investors of the other Contracting Party to enter and remain in its territory for the purpose of engaging in activities connected with investments.

Article 12. Applicable Laws

(1) Except as otherwise provided in this Agreement, all investments shall be governed by the laws in force in the territory of

the Contracting Party in which such investments are made.

(2) Notwithstanding paragraph (1) of this Article nothing in this Agreement precludes the Contracting Party in whose territory the investment was made, from taking action for the protection of its essential security interests or in circumstances of extreme emergency in accordance with its laws normally and reasonably applied on a non discriminatory basis.

Article 13. Application of other Rules

If the laws 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 14. Entry Into Force

This Agreement shall be subject to ratification and shall enter into force on the latter date on which either Contracting party notifies the other that its internal legal procedures for the entry into force of this Agreement have been fulfilled.

Article 15. Duration and Denunciation

(1) This Agreement shall remain in force for a period of ten (10) years. Thereafter it shall remain in force for a similar period or periods unless, either Contracting Party notifies the other Contracting Party of its intention to denounce the Agreement. The notice of denunciation shall become effective one year after it has been received by the other Contracting Party.

(2) With respect to investments made prior to the date when the notice of denunciation of this Agreement become effective, the provisions of this Agreement shall continue to be effective for a period of ten years from the date of denunciation of this Agreement.

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

Done in Skopje on 17th March 2008 in two originals each in the Hindi, Macedonian and English languages, all texts being equally authoritative. In case of any divergence in the interpretation, the English text shall prevail.

For the Government of the Republic of India For the Government of the Republic of Macedonia

sd/-(M. Lal Dingliana) Ambassador of India Sd/-

(Trajko Slaveski)

Minister of Finance