AGREEMENT BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN AND THE GOVERNMENT OF SERBIA AND MONTENEGRO ON THE PROMOTION AND RECIPROCOAL PROTECTION OF INVESTMENTS

PREAMBLE

The Government of the Islamic Republic of Iran and the Government of Serbia and Montenegro, hereinafter referred to as the "Contracting Parties",

Desiring to establish and intensify economic cooperation to the mutual benefit of both States,

Intending to utilize their economic resources and potential facilities as well as to create and maintain favorable conditions for investments of investors of one Contracting Party in the territory of the other Contracting Party, and

Recognizing the need for the protection of investments of investors of both Contracting Parties in the territory of the other Contracting Party,

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement the meaning of the terms used therein are as follows:

1. The term "investment" refers to every kind of property or asset invested by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the national laws and regulations of the other Contracting Party (hereafter referred to as the host Contracting Party):

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

b) Shares or any kind of participation in companies;

c) Claim to money or to any performance having an economic value;

d) Intellectual and industrial property rights, such as patents, utility models, industrial designs or models, trade marks and names, know-how and goodwill;

e) Special rights conferred by the law, an agreement or a decision of a competent authority to search for, extract or exploit natural resources.

Any alteration of the form in which assets are invested shall not affect their classification as investments as long as the alteration is approved by the competent authority of the host Contracting Party.

2. The term "investors" refers to the following persons who invest in the territory of the other Contracting Party, within the framework of this Agreement:

a) Natural persons possessing the nationality of one of the Contracting Parties in accordance with its laws, and who do not possess the nationality of the host Contracting Party.

b) Legal persons of either Contracting Party which are established under the national laws of that Contracting Party, and whose headquarters and real economic activities are located in the territory of that Contracting Party.

3. The term "returns" means investment funds that are obtained legally, in particular but not exclusively, profits from investments, interest from financing, capital gains, dividends, fees and royalties.

4. The term "territory" of a Contracting Party:

a) In the case of the Islamic Republic of Iran, it refers to the areas under the sovereignty or jurisdiction of the Islamic Republic of Iran, as the case may be, and includes its maritime areas.

b) In the case of the Republic of Serbia and Montenegro, it means the territory of Serbia and Montenegro, including its territorial sea, the contiguous zone, the continental shelf and the exclusive economic zone over which Serbia and Montenegro exercise jurisdiction, respectively, sovereign rights, in accordance with their legislation and international law.

Article 2. Promotion of Investment

1. Each Contracting Party shall encourage its investors to invest in the territory of the other Contracting Party.

2. Each Contracting Party shall create favorable conditions for investors of the other Contracting Party to attract investment by natural and legal persons of the other Contracting Party in its territory, in accordance with its laws and regulations.

Article 3. Admission of Investment

1. Each Contracting Party shall admit investments of investors of the other Contracting Party in its territory, in accordance with its national laws and regulations.

2. When an investment is admitted, either Contracting Party shall, in accordance with its national laws and regulations, grant the necessary permits for the realization of such an investment.

Article 4. Protection of Investment

1. Investments of investors of either Contracting Party effected within the territory of the other Contracting Party shall receive the host Contracting Party's full legal protection and fair treatment not less favourable than accorded to its own investors or to investors of any third State.

2. Neither Contracting Party shall impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment, extension, sale or liquidation of the investments of the investors of the other Contracting Party.

3. If a Contracting Party has accorded or shall accord in the future special advantages to investors of any third State by virtue of an existing or future agreement establishing a free trade area, a customs union, a common market or a similar regional organization and/or by virtue of an agreement on the avoidance of double taxation, it shall not be obliged to accord such advantages or rights to investors of the other Contracting Party.

Article 5. More Favorable Provisions

1. Notwithstanding the terms set forth in this Agreement, more favorable provisions that have been or may be agreed upon between any party hereto and an investor of the other party shall prevail.

2. If the national legislation of a Contracting Party or existing or future international agreements that are applicable between the Islamic Republic of Iran and Serbia and Montenegro or any other international agreements they have concluded, entitles the investments of the investors of the Contracting Party to treatment more favourable than is provided for in this Agreement, such legislation shall, to the extent that is more favourable, prevail over this Agreement.

Article 6. Expropriation and Compensation

1. Investments of natural and legal persons of either Contracting Party shall not be nationalized, confiscated, expropriated or subjected to similar measures by the other Contracting Party, except such measures are taken for public purposes, in accordance with due process of law, in a non-discriminatory manner, and upon payment of prompt adequate and effective compensation.

2. The amount of compensation shall be equivalent to the value of the investment immediately before the action of nationalization, confiscation or expropriation was taken.

3. The investor affected shall have the right, under the law of the Contracting Party making the expropriation, to prompt review by a judicial authority or administrative tribunals or agencies of that Contracting Party of its case, in accordance with the principles set out in this Article.

Article 7. Losses

Investors of either Contracting Party whose investments suffer losses due to any armed conflict, war or similar state of emergency in the territory of the other Contracting Party shall be accorded by the other Contracting Party treatment no less favorable than that accorded to its own investors or to investors of any third State. The payment of the compensation shall be without delay and freely transferable.

Article 8. Repatriation and Transfer of Capital

1. Each Contracting Party shall, in accordance with its laws and regulations, permit the following transfers related to investments referred to in this Agreement to be made freely and without delay out of its territory:

a) Returns;

b) Proceeds from the sale and/or liquidation of all or part of an investment;

c) Royalties and fees related to transfer of technology agreement;

d) Sums paid pursuant to Article 6 and/or 7 of this Agreement;

e) Loan installments which are related to an investment and paid out of such investment activities;

f) repayment of loans related to the investment, provided that the payments are made from such investment activities;

g) Payments arising from a decision of the authority referred to in Article 12.

2. The above transfers shall be effected without delay in a convertible currency and at the current rate of exchange on the date of transfer.

3. The investor may choose to agree otherwise with the host Contracting Party on the manner of repatriation or transfers referred to in this Article.

Article 9. Subrogation

If a Contracting Party or its designated agency, within the framework of a legal system, subrogates an investor pursuant to a payment made under an insurance or guarantee agreement against non-commercial risks:

a) Such subrogation shall be recognized by the other Contracting Party;

b) The subrogate shall not be entitled to exercise any rights other than the rights which the investor would have been entitled to exercise;

c) Disputes between the subrogee and the host Contracting Party shall be settled in accordance with Article 12 of this Agreement.

Article 10. Observance of Commitments

Either Contracting Party shall guarantee the observance of the commitments it has entered into with respect to investments of natural and legal persons of the other Contracting Party.

Article 11. Scope of the Agreement

This Agreement shall apply to investments approved by the competent authorities of the host Contracting Party as far as its national laws and regulations require. The competent authority in the Islamic Republic of Iran is the Organization for Investment, Economic and Technical Assistance or the agency that may succeed it. This Agreement shall not apply to disputes that have arisen before its entry into force.

Article 12. Settlement of Disputes between a Contracting Party and an Investor of the other Contracting Party

1. Any dispute between the host Contracting Party and an investor or investors of the other Contracting Party shall, as far as possible, be settled in an amicable manner through negotiation and consultation.

2. In the event that the dispute with regard to an investment between the investor or investors of a Contracting Party and the other Contracting Party cannot be settled within six months from the date of the written application for settlement,

either party may submit the dispute for settlement to the competent courts of the host Contracting Party; or in accordance with its national laws and regulations to an Arbitral Tribunal:

a) An ad hoc Arbitral Tribunal, in compliance with the arbitration rules of the United Nations Commission on International Trade (UNCITRAL).

b) The International Centre for Settlement of Disputes (ICSID), for the implementation of the arbitration procedure under the Washington Convention of 18 March, 1965 on the settlement of Investment Disputes between States and Nationals of other States, if and as soon as both Contracting Parties have acceded to it.

3. The vote of the Arbitral Tribunal shall be final and binding on the parties to the dispute and shall be enforced in accordance with the national laws and regulations of the Contracting Party in whose territory the investment was made.

4. Any dispute primarily referred to the competent court of the host Contracting Party, as long as it is pending, cannot be referred to arbitration except with the parties' agreement; and in the event that a final judgment is rendered, it cannot be referred to arbitration.

5. National courts shall not have jurisdiction over any dispute referred to arbitration. However, the provisions of this paragraph do not bar the winning party from seeking enforcement of the arbitral award before national courts.

Article 13. Settlement of Disputes between the Contracting Parties

1. All disputes arising between the Contracting Parties relating to the interpretation and application of this Agreement shall, in the first instance, be settled amicably through consultations and negotiations. In case of disagreement, either Contracting Party may, subject to its laws and regulations, while sending a notice to the other Contracting Party, refer the case to an Arbitral Tribunal of three members consisting of two arbitrators appointed by the Contracting Parties. The arbitrators appointed by the Contracting Parties shall appoint a Chairman. Each of the two Contracting Parties shall appoint an arbitrator within sixty days from the date on which the request for arbitration is received. The arbitrators appointed by the Contracting Parties shall appoint a Chairman within sixty days from the date of the appointment of the second arbitrator. If the necessary appointments of arbitrators have not been made in the period specified, either party may invite the President of the International Court of Justice to make the necessary appointments. In any event, a Chairman must be a national of a third State having diplomatic relations with both Contracting Parties at the time of the appointment.

2. In the event that the President of the International Court must appoint a Chairman and if 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 of the International Court of Justice, and if the Vice-President is also prevented from carrying out the said function or he is a national of either Contracting Party, the appointment shall be made by the senior member of the said court who is not a national of either Contracting Party.

3. The Arbitration Tribunal shall, taking into account all other matters that the parties have agreed to, lay down its own procedures and determine the place of arbitration. The Arbitration Tribunal shall decide in accordance with the provisions of this Agreement and generally accepted principles of international law.

4. The decisions of the Arbitration Tribunal shall be binding on both Contracting Parties. Both Contracting Parties shall pay the costs of their own arbitration and of their representative at the hearings. The cost of the Chairman and any other costs shall be divided equally between the Contracting Parties.

Article 14. Validity of the Agreement

1. This Agreement shall be ratified by the competent authorities of each Contracting Party.

2. This Agreement shall enter into force for a period of ten years after thirty days from the date of receipt of the last of the two notifications by which the Contracting Parties shall communicate officially to each other that their respective ratification procedures have been completed. This Agreement shall remain in force thereafter unless one of the Contracting Parties notifies the other Contracting Party in writing of its intention to terminate it. The termination shall come into effect twelve months after the date of receipt of the notification.

3. After the expiration of the validity or termination of this Agreement, its provisions shall apply to investments under this Agreement for a further period of ten years.

Article 15. Language and Number of Texts

This Agreement is done in duplicate in Persian, Serbian, and English languages and all texts are equally authentic. In case of divergence of interpretation, the English text shall prevail.

This Agreement is signed at Belgrade on December 5, 2003 corresponding to 14th Azar 1382 by the representatives of Governments of the Islamic Republic of Iran and Serbia and Montenegro.

For Serbia and Montenegro

Rasim Ljajić, s.r.

For the Islamic Republic of Iran

Tahmasb Mazaneri, s.r.