

AGREEMENT

Enter

THE FEDERAL GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

And

THE GOVERNMENT OF THE REPUBLIC OF GUINEA

ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS.

The Federal Government of the Federal Republic of Yugoslavia and the Government of the Republic of Guinea (hereinafter referred to as "the Contracting Parties"),

Desiring to create the conditions conducive to the expansion of economic co-operation between the Contracting Parties,

Desiring to create and maintain conditions conducive to reciprocal investment,

Convinced that the promotion and protection of investments would be conducive to the spirit of enterprise and thus contribute to a large extent to the development of economic relations between the Contracting Parties,

Have agreed as follows:

Article 1. Definitions

Under the terms of this Agreement:

1. The term "Investments" means all kinds of funds invested by the investor of one Contracting Party in the territory of the other Contracting Party in accordance with the legislation of the other Contracting Party. It concerns notably but not exclusively:

(i) movable and immovable property, and any other property right in rem, including mortgage, pledge or security interest;

(ii) - shares, bonds and other securities of value and all other forms of participation in a company;

(iii) - financial receivables and liabilities and other receivables

Contracts with economic value;

(iv) intellectual property rights, such as copyrights and other similar rights, industrial property rights such as patents, licenses, plans or models, trademarks, intangible assets, technical processes, and know-how;

(v) - concessions granted in accordance with the legislation in force in the Contracting Party in whose territory the

Investments are made, including concessions for the

Prospecting, extraction and exploitation of natural resources.

The change in the form of investment does not entail a change in its nature as an investment.

2. The term "returns" means income from investments. It covers, inter alia, profits, capital gains, dividends, interest,

royalties, fees, patents and licenses, and other similar charges.

3. The term "investor" means:

(i) any natural person of one of the Contracting Parties investing in the territory of the other Contracting Party.

(ii) any legal person established, founded or otherwise duly organized in accordance with the law of either Contracting Party with its seat in its territory and investing in the territory of the other Contracting Party.

4. The term "territory" means the extent within land boundaries, the extent of the sea, the seabed and subsoil thereof outside territorial waters under the sovereign right or jurisdiction of the Party Contracting Party in accordance with its national law or international law.

Article 2.

Promotion and protection of investments.

1. Each Contracting Party shall promote and create favorable conditions for investors of the other Contracting Party in its territory and shall authorize the investments in question in accordance with the legislation in force.

2. Investments made by investors of each Contracting Party shall at all times enjoy fair and equitable treatment, protection and full security in the territory of the other Contracting Party.

Article 3.

National treatment and most-favored-nation treatment.

1. Each Contracting Party shall accord to its investments in the other Contracting Party treatment no less favorable than that accorded to national investors or to investors of a third State, the most favorable treatment to be given.

2. Each Contracting Party shall in its territory guarantee investors of the other Party treatment no less favorable than that granted to domestic investors in the management, maintenance, operation and enjoyment of their investments Or that accorded to those of a third State, the most favorable treatment to prevail.

2. The provisions of paragraphs 1 and 2 of this Article shall not be construed as an obligation of either Contracting Party to accord to investors of the other more favorable, preferential or privileged treatment than the former Contracting Party may grant, Within the framework of:

(i) a customs union, a free trade area, a monetary union or other similar international agreement establishing such unions or other forms of regional cooperation to which either The other Contracting Party has acceded or may accede.

(ii) any international agreement or arrangement relating wholly or in part to questions of taxation.

Article 4. Loss Compensation

1. Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses as a result of an armed conflict, state of emergency, mutiny, uprising or disturbance in that territory, Shall be accorded in respect of compensation, compensation, reimbursement or other form of compensation for losses, treatment no less favorable than that accorded to domestic investors or to any third country. Payments in respect of the above shall be made within the agreed period and shall be freely transferable.

2. Without prejudice to the provisions of paragraph 1, investors of one Contracting Party who have incurred losses in any of the aforementioned situations in the territory of the other Party resulting from:

(i) the seizure by the authorities of the other Contracting Party of property belonging to them,

(ii) the destruction of property belonging to them by the authorities of the other Contracting Party which is not caused by the fighting and would not have been imposed by the situation shall be accorded the possibility of transfer of funds or shall be entitled to A corresponding compensation. Payments in respect of the above shall be made within the agreed period and shall be freely transferable.

Article 5. Expropriation

1. The funds invested by investors of one Party of the other shall not be nationalized, expropriated or subjected to any measure having equivalent effect to nationalization or expropriation (in the following text: Expropriation ") in the territory of the other Contracting Party, except in the public interest. The expropriation will be carried out in compliance with the law, on a non-discriminatory basis in exchange for an adequate compensation to be settled within the agreed period. The amount of the compensation shall be the current price of the expropriated investments in force immediately before the expropriation or before the imminent expropriation becomes known, as the case may be. This amount will carry interest calculated in accordance with LIBOR to six months for the period up to the day of settlement. The payment to be made shall be made within the agreed period and the amount shall be freely transferable.

2. The investor who has suffered the loss shall, in accordance with the legislation of the Contracting Party applying the expropriation, be entitled by the competent authorities of that Party to immediately examine his claim file and to evaluate his Accordance with the principles set out in this paragraph.

Article 6. Repatriation of Investment and Income

1. Each Contracting Party shall guarantee to investors of the other State, after the latter has fulfilled tax and other obligations, subject to the legislation in force of the former, the free transfer of payments made in respect of investments And in particular, but not exclusively:

- 1) capital and additional funds to maintain or increase the funds invested;
- (2) yields;
- (3) funds from the repayment of credits;
- (4) income from the sale or liquidation of investments;
- (5) the amounts settled under Articles 4 and 5 of this Agreement.

2. The transfers referred to in paragraph 1 of this Article shall be made within the agreed period in convertible currency at the rate of exchange applicable on the day of transfer in the territory of the Contracting Party in which the investment is made.

Article 7. Subrogation

1. If, as a guarantee for investments made in the territory of the other Contracting Party, payments to the benefit of its own investors have been made by the Contracting Parties or its representative, the latter shall recognize:

- (i) The rights or claims of investors of the first Contracting Party or of the institution designated by it and the assignment to the first Contracting Party or its representative of any rights and interests of the investor so compensated,
- (ii) the first Contracting Party or the institution subrogated thereto, as having the power to exercise the rights or to claim the claims due to investors, and shall assume the obligations relating to the investments.

2. Subrogated rights or claims shall not be greater than those of the investor.

3. The subrogation of the rights and obligations of an indemnified investor shall also cover transfers of payments made in accordance with the provisions of Article 6 of this Agreement.

Article 8. Settlement of Disputes between the Contracting Parties

1. Any dispute arising out of the interpretation or application of this Agreement shall be settled to the fullest extent possible by negotiation between the Parties.

2. If, after six months from the beginning of the negotiations, the negotiations have not been successful, the matter shall be submitted, at the request of either Party, to arbitration.

3. The arbitration court referred to in paragraph 2 above shall be set up on an ad hoc basis, on a case-by-case basis, in accordance with the following procedure: within three months of receipt of the request for arbitration, Arbitration, each of the Contracting Parties shall appoint a member of the arbitral tribunal. These two members shall designate, within a period of two months, a third member who shall be a national of a third country. With the agreement of both Contracting Parties, the latter shall assume the presidency of the Arbitration.

4. In the event that the arbitral tribunal is not constituted within the time limits provided for in the preceding paragraph, either Contracting Party may, in the absence of another arrangement, resort to the International Court of Justice and request To its chairman to make the necessary appointments. In the event of the President being a national of one of the Parties or prevented from taking up his duties, the Vice-President shall be requested to proceed with the appointment of the aforementioned officials. Should the latter still prove to be a national of one of the Contracting Parties or prevented from performing the task entrusted to him, the request for appointment shall be addressed, this time, to the first - in the hierarchical order - Of the members of the International Court of Justice who are not nationals of either Contracting Party.

5. The arbitral tribunal shall take its decisions on the basis of the provisions of this Agreement and in accordance with the principles and rules of international law commonly recognized. Decisions of the Arbitration shall be taken by a majority of votes. They shall be final and binding on both Contracting Parties. The court is called upon to establish its own rules of procedure.

6. Each Contracting Party shall bear the cost of its representative and of the latter's participation in the arbitration proceedings. The costs of the chairmanship and other expenses inherent in the arbitration shall be borne equally by both Parties.

Article 9. The Settlement of Disputes between One Contracting Party and the Investors of the other

1. The solutions to disputes between one Contracting Party and the investors of the other Party relating to the latter's obligations under this Agreement in respect of investments made by investors of the other Party shall be sought, As far as possible, by negotiation.

2. Should the disputes referred to in paragraph 1 of this Article not be settled within six months of negotiations, either Party shall have the right to submit the case to the competent court of the Contracting Party At the same time a party to the dispute.

3. Failing application of the provisions of paragraph 2 of this Article, both Parties to the dispute shall have the right to refer the matter to arbitration:

(i) - an AD HOC Arbitration Court, in accordance with the arbitration rules of the United Nations Commission on Commercial Law (UNCITRAL1),

(ii) or the International Center for Settlement of Investment Disputes, if both Contracting Parties are parties to the Convention on the Settlement of Disputes between States in Respect of Investments to Nationals of Other States, Opened for signature on 18 March 1965 in Washington (Convention 1CSID).

4. The decision thus pronounced shall be final and binding on both parties to the dispute and enforced in accordance with the legislation in force of the Contracting Party in whose territory the investments took place.

Article 10. The Application of other Provisions

Should the national laws of the Contracting Parties, or existing or future agreements between the Contracting Parties or international agreements signed by the Contracting Parties, include provisions for investments by investors of one of them, treatment More favorable than that provided for in this Agreement, the laws and agreements referred to above would have the preponderance - in so far as they proved more favorable.

Article 11. Consultations

If necessary, the representatives of the Contracting Parties shall meet in consultations on matters relating to the application of this Agreement, consultations shall be held on the proposal of one of the Parties, to be agreed upon through diplomatic channels.

Article 12. Implementation of the Agreement

The provisions of this Agreement relate to investments made by investors of one Contracting Party in the territory of the other Contracting Party before and after the entry into force of this Agreement but shall be applied from the date of its entry into force.

Article 13.

The entry into force, the period of validity and the expiry of the Agreement.

1. This Agreement, subject to ratification, shall enter into force on the date of the exchange of the instruments of ratification.

2. This Agreement is concluded for a period of ten years

Renewable by tacit agreement for successive successive periods of five years, unless one of the Contracting Parties has informed the other, in writing at least twelve months before its expiry, that it wishes to terminate.

3. For investments made before the date of expiry of this Agreement, the provisions of Articles 1 to 12 shall continue to apply for a period of 10 years thereafter.

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

Done at Conakry on 22 October 1996 in two originals in the Serbian and French languages, both texts being equally authentic.

FOR THE FEDERAL GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

DR. ZORAN BINGULAC

FOR THE GOVERNMENT OF THE REPUBLIC OF GUINEA

DR. OUSMANE KABA