AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF TURKEY AND THE FEDERAL GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA CONCERNING THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Turkey and the Federal Goverment of the Federal Republic of Yugoslavia, hereinafter called the Contracting Parties.

(Contracting Parties hereinafter called the Parties)

Desiring to promote greater economic cooperation between them, particularly with respect to investment by investors of one Party in the territory of the other Party.

Recognizing that agreement upon the treatment to be accorded such investment will stimulate the flow of capital and technology and the economic development of the Parties.

Agreeing that fair and equitable treatment of investment is desirable in order to maintain a stable framework for investment and maximum effective utilization of economic resources, and

Having resolved to conclude an agreement concerning the reciprocal encouragement and protection of investments,

Hereby agree as follows:

Article 1. Definitions

For the purpose of this Agreement;

1. The term "investor" means:

(a) Natural persons deriving their status as nationals of either Party according to its applicable law and making investments in the territory of the other Party.

(b) Corporations, firms or business associations incorporated or constituted under the laws and regulations in force of either of the Parties and having their headquarters in the territory of that Party and making investments in the territory of the other Party.

2. The term "investment", in conformity with the hosting Party's laws and regulations, shall include every kind of asset in particular, but not exclusively:

(a) Shares, stocks or any other kinds of participation and interest in companies,

(b) Returns reinvested, claims to money or any other claims under contract having an economic value related to an investment.

(c) Movable and immovable property, as well as any other property rights as mortgages, liens, pledges.

(d) Intellectual property rights such as copyrights and related rights, patents, industrial designs or models, trademarks, goodwill, technical processes and know-how.

(e) Business concessions conferred by law or by contract, in accordance with the national legislation related to natural resources.

The said term shall refer to all direct investments made in accordance with the laws and regulations in the territory of the Party where the investments are made. A change in the form in which assets are invested shall not affect their character as

investments. 3. The term "returns" means the amounts yielded by an investment and includes in particular, though not exclusively, profit, dividends, capital gains, royalties, licences, fees and such other similar fees

4. The term "territory" means; with respect to the Republic of Turkey, the land territory, territorial sea, seabed and subsoil over which it has jurisdiction or sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources pursuant to international law.

The term "territory" with respect to the Federal Republic of Yugoslavia the area encompassed by land boundaries as well as the sea, seabed and its subsoil beyond the territorial sea over which the Party exercises, in accordance with its national laws and regulations and international law, sovereign rights or jurisdiction.

Article II. Promotion and Protection of Investments

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

2. Investments of investors of each Party shall at all times be accorded fair and equitable treatment and shall enjoy legal protection in the territory of the other Contracting Party.

3. Subject to the laws and regulations of the Parties relating to the entry, sojourn and employment of aliens:

(a) Nationals of either Party shall be permitted in accordance with its laws and regulations of the host Party to enter and remain in the territory of the other Party for purposes of establishing, developing, administering or advising on the operation of an investment to which they, or an investor of the first Party that employs them, have committed or are in the process of committing a substantial amount of capital or other resources,

(b) Companies which are legally constituted under the applicable laws and regulations of one Party, and which are investments of investors of other Party, shall be permitted to engage managerial and technical personnel of their choice, regardless of nationality.

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

1. Each Party shall permit in its territory investments, and activities associated therewith, on a basis no less favourable than that accorded in similar situations to investments of investors of any third country, within the framework of its laws and regulations.

2. Each Party shall accord to these investments, once established, treatment no less favourable than that accorded in similar situations to investments of its own investors or to investments of investors of any third country, whichever is the most favourable.

3. The provisions of paragraphs 1 and 2 of this Article shall not be construed so as to oblige one Party to extend to the investors of the other Party the benefit of any treatment, preference or privilege which the former Party may grant to:

(a) A customs union, free trade zone, monetary union or similar international agreement establishing such unions or other forms of international cooperation to which either of the Parties is or may become a party, or

(b) Any international agreement or arrangement relating wholly or partially to taxation.

Article IV. Expropriation and Compensation

1. Investments shall not be expropriated, nationalized or subject, directly or indirectly, to measures of similar effects except for a public purpose, in a non-discriminatory manner, upon payment of prompt, adequate and effective compensation, and in accordance with due process of law and the general principles of treatment provided for in Article III of this Agreement.

2. Compensation shall be equivalent to the real market value of the expropriated investment before the expropriatory action was taken or became known. Compensation shall be paid without delay and be freely transferable and shall include interest in accordance with the national legislation, from the date of expropriation until the date of payment.

3. Investors of either Party whose investments suffer losses in the territory of the other Party owing to war, armed conflict, insurrection, civil disturbance or other similar events shall be accorded as regards restitution, indemnification, compensation or other settlement by such other Party treatment no less favourable than that accorded to its own investors or to investors of any third country, whichever is the most favourable treatment, as regards any measures it adopts in relation to such losses. Resulting payments shall be made without undue delay and shall be freely transferable.

Article V. Repatriation and Transfer

1. Each Party shall guarantee to the investors of the other Party freedom of transfer of payments related to its investments including in particular, though not exclusively:

(a) Returns,

(b) Proceeds from the sale or liquidation of all or any part of an investment,

(c) Compensation pursuant to Article IV,

(d) Reimbursements and interest payments deriving from loans in connection with investments,

(e) Unspent salaries, wages and other remunerations received by the nationals of one Party who have obtained in the territory of the other Party the corresponding work permits relative to an investment,

(f) Payments arising from an investment dispute.

2. Transfers shall be made in the convertible currency in which the investment has been made or in any convertible currency at the rate of exchange in force at the date of transfer in the territory of the Party the investment has been made unless otherwise agreed by the investor and the hosting Party.

Article VI. Subrogation

1. If the investment of an investor of one Party is insured against non-commercial risks under a system established by law and if a Party or its designated Agency or a legal person acting under its supervision (hereinafter called the "insurer") makes a payment to any of its own investors in the territory of the other Party, under the insurance agreement, the host Party shall recognize that the insurer is entitled to exercise such rights and claims and the transfer of any right or claim of such an investor.

2. The rights or claims so subrogated shall not exceed the original rights or claims of the investor.

3. Subrogation of the rights and obligations of the indemnified investor shall also apply to the transfer of payments effected with in accordance with Article V. of his Agreement.

4. Disputes between a Party and an insurer shall be settled in accordance with the provisions of Article VII of this Agreement.

Article VII. Settlement of Disputes between One Party and Investors of the other Party

1. Disputes between one of the Parties and an investor of the other Party, in connection with his investment, shall be notified in writing, including a detailed information, by the investor to the recipient Party of the investment. As far as possible, the investor and the concerned Party shall endeavour to settle these disputes by consultations and negotiations in good faith.

2. If these disputes cannot be settled in this way within six months following the date of the written notification mentioned in paragraph I, the dispute can be submitted, as the investor may choose, to:

(a) The International Center for Settlement of Investment Disputes (ICSID) set up by the "Convention on Settlement of Investment Disputes Between States and Nationals of other States", in case both Parties become signatories of this Convention,

(b) An ad hoc court of arbitration laid down under the Arbitration Rules of Procedure of the United Nations Commission for International Trade Law (UNCITRAL),

(c) The Court of Arbitration of the Paris International Chamber of Commerce, provided that, if the investor concerned has brought the dispute before the local courts of the Party that is a party to the dispute and a final award has not been rendered within one year.

3. The arbitration awards shall be final and binding for all parties in dispute. Each Party commits itself to execute the award according to its national law.

Article VIII. Settlement of Disputes between the Parties

1. The Parties shall seek in good faith and a spirit of cooperation a rapid and equitable solution to any dispute between them concerning the interpretation or application of this Agreement. In this regard, the Parties agree to engage in direct and meaningful negotiations to arrive at such solutions. If the Parties cannot reach an agreement within six months after the beginning of dispute between themselves through the foregoing procedure, the dispute may be submitted, upon the request of either Party, to an arbitral tribunal of three members.

2. Within two months of receipt of a request, each Party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator as Chairman, who is a national of a third State. In the event either Party fails to appoint an arbitrator within the specified time, the other Party may request the President of the International Court of Justice to make the appointment.

3. If both arbitrators cannot reach an agreement about the choice of the Chairman within two months after their appointment, the Chairman shall be appointed upon the request of either Party by the President of the International Court of Justice.

4. If, in the cases specified under paragraphs (2) and (3) of this Article, the President of the International Court of Justice is prevented from carrying out the said function or if he is a national of either Party, the appointment shall be made by the Vice-President, and if the Vice-President is prevented from carrying out the said function or if he is a national of either Party, the appointment shall be made by the most senior member of the Court who is not a national of either Party.

5. The tribunal shall have three months from the date of the selection of the Chairman to agree upon rules of procedure consistent with the other provisions of this Agreement. In the absence of such agreement, the tribunal shall request the President of the International Court of Justice to designate rules of procedure, taking into account generally recognized rules of international arbitral procedure.

6. Unless otherwise agreed, all submissions shall be made and all hearings shall be completed within eight months of the date of selection of the Chairman, and the tribunal shall render its decision within two months after the date of the final submissions or the date of the closing of the hearings, whichever is later. The arbitral tribunal shall reach its decisions, which shall be final and binding, by a majority of votes.

7. Expenses incurred by the Chairman, the other arbitrators, and other costs of the proceedings shall be paid for equally by the Parties. The tribunal may, however, at its discretion, decide that a higher proportion of the costs be paid by one of the Parties.

8. A dispute shall not be submitted to an international arbitration court under the provisions of this Article, if the same dispute has been brought before another international arbitration court under the provisions of Article VII and is still before the court. This will not impair the engagement in direct and meaningful negotiations between both Parties.

Article IX. Application of other Provisions

If the laws of either Party or international agreements existing at present or established hereafter between the Parties or other international agreements whereof the Parties are signatories contain provisions entitling investments by investors of the other Party to a treatment more favourable than is provided for by this Agreement, such laws and agreements shall to the extent that they are more favourable prevail over this Agreement.

Article X. Consultations

Representatives of the Parties shall hold consultations, when necessary, concerning matters related to the application of this Agreement. These consultations shall be held at the proposal of one of the Parties at a time and place to be agreed upon through diplomatic channels.

Article XI. Entry Into Force

1. This Agreement is subject to ratification and shall enter into force at the date of exchange of the two written notifications by which the two Parties notify each other that their respective internal procedures have been completed. It shall remain in force for a period of ten years and shall continue to be in force unless terminated in accordance with paragraph 2 of this Article. It shall apply to investments existing at the time of entry into force as well as to investments made or acquired thereafter and shall be applicable from the date of entry into force of this Agreement.

2. Either Party may, by giving one year's written notice to the other Party, terminate this Agreement at the end of the initial ten year period or at any time thereafter.

3. This Agreement may be amended by written agreement between the Parties. Any amendment shall enter into force when

each Party has notified the other that it has completed all internal requirements for entry into force of such amendment.

4. With respect to investments made or acquired prior to the date of termination of this Agreement and to which this Agreement otherwise applies, the provisions of all of the other Articles of this Agreement shall thereafter continue to be effective for a further period of ten years from such date of termination.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Agreement.

DONE at Belgrade on the day of 2 March 2001 in the Turkish, Serbian and English languages all of which are equally authentic.

In case of divergence of interpretation the English text shall prevail.