AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SLOVENIA AND THE GOVERNMENT OF THE REPUBLIC OF BULGARIA ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of Slovenia and the Government of the Republic of Bulgaria (hereinafter referred to as the "Contracting Parties")

Desiring to create favourable conditions for greater economic co-operation between their countries and in particular, with respect to investments by investors of one Contracting Party in the territory of the other Contracting Party;

And

Recognizing that the reciprocal promotion and protection of such investments under this Agreement will be conducive to the stimulation of business initiative and will increase prosperity in both States;

Have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement

1. The term "investment" shall mean every kind of asset invested in accordance with the legislation of the Contracting Party in whose territory the investment is made and in particular, though not exclusively:

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

b) Shares, stocks, securities and any other form of participation in a company;

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

d) Intellectual property rights, including rights with respect to copyright, patents, trade marks, trade names, industrial designs and rights in technical processes, goodwill and know-how;

e) Concessions, conferred by law, under a contract or an administrative act of a competent state authority to undertake any economic activity, including concessions to search for, cultivate, extract or exploit natural resources.

Any alteration of the form in which assets are invested or reinvested shall not affect their character as investments provided that such alteration is in accordance with the legislation of the Contracting Party in whose territory the investment has been made.

2. The term "investor" shall mean:

a) Natural persons having the nationality of either Contracting Party in accordance with its laws;

b) Any company, enterprise, partnership or organization incorporated or constituted in accordance with the laws of the Contracting Party and having its seat in the territory of the latter.

3. The term "returns" shall include all amounts yielded by an investment, such as profits, dividends, interests and other lawful incomes.

4. The term "territory" shall mean:

a) With respect to the Republic of Slovenia the territory under its sovereignty, including air space and maritime areas, over which the Republic of Slovenia exercises its sovereignty or jurisdiction, in accordance with internal and international law;

b) With respect to the Republic of Bulgaria the territory under its sovereignty, including the territorial sea, as well as the continental shelf and the exclusive economic zone, over which the Republic of Bulgaria exercises sovereign rights or jurisdiction in conformity with international law.

Article 2. Promotion and Protection of Investments

1. Each Contracting Party shall promote within its territory investments made by investors of the other Contracting Party and shall admit such investments into its territory in accordance with its legislation.

2. Each Contracting Party shall accord to investments in its territory of investors of the other Contracting Party fair and equitable treatment and full and constant protection and security. Each Contracting Party shall not impair by unreasonable, arbitrary or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of the other Contracting Party. In case of reinvestments of returns from an investment, these reinvestments and their returns shall enjoy the same protection as the initial investments.

3. Each Contracting Party shall consider favourably, and in compliance with its legislation, questions concerning entry, stay, work and movement in its territory of nationals of the other Contracting Party who carry out activities connected with the investments as defined in the present Agreement and of their families forming part of their household.

Article 3. National Treatment and Most Favoured Nation Treatment

1. Investments made by investors of either Contracting Party in the territory of the other Contracting Party shall be accorded treatment not less favourable than that accorded to investments made by its own investors or by investors of any third State, whichever is more favourable.

2. Investors of either Contracting Party shall be accorded in the territory of the other Contracting Party, as regards management, maintenance, use, enjoyment or disposal of their investments, treatment which is not less favourable than that accorded to its own investors or to investors of any third State, whichever is more favourable.

3. The provisions of paragraph 1 and 2 of this Article shall not be construed so as to oblige either Contracting Party to extend to the investors of the other Contracting Party the privileges, accorded to investors of a third State, based on:

a) Participation in, or association with, existing or future customs union, free trade area, economic communities or other similar institutions, or

b) Agreements relating wholly or mainly to taxation.

4 Each Contracting Party reserves the right to make or maintain, in compliance with its legislation in force, exceptions from national treatment granted according to Paragraphs 1 and 2 of this Article. However, any new exception shall only apply to investments made after the entry into force of such exception.

Article 4. Compensation for Losses

Investors of one Contracting Party whose investments suffer losses in the territory of the other Contracting Party owing to war, other armed conflict, state of national emergency or other similar events shall be accorded treatment, in respect to restitution, indemnification, compensation or other settlement, no less favourable than that accorded to its own investors or to investors of any third State.

Article 5. Expropriation and Compensation

1. Investments of investors of either Contracting Party shall not be nationalized, expropriated or subjected to measures having an effect equivalent to nationalization or expropriation (hereinafter referred to as "expropriation") in the other Contracting Party, except for a public purpose, on a non-discriminatory basis, under due process of law and against prompt, effective and adequate compensation.

2. The compensation shall amount to the market value of the investments concerned immediately before the date of entry into force of the act for expropriation and shall be paid without delay, shall carry an annual rate of interest equal to 6 months LIBOR quoted for the currency in which the investments were made until the time of payment. Any value reduction due to the fact that the impending expropriation has become public knowledge, shall not be taken into consideration when evaluating the amount of the compensation due. The payment of such compensation shall be freely transferable.

Article 6. Transfers

1. Each Contracting Party shall accord to the investors of the other Contracting Party, after the fulfilment of all their tax obligations, the free transfer of funds related to their investments and in particular though not exclusively:

a) Initial capital and additional contributions for the maintenance or increase of the investments;

b) Returns from the investments;

c) Proceeds obtained from the sale or from the total or partial liquidation of the investment;

d) The sums required for payment of the expenses which arise from the operation of the investment, such as loan repayments, payments of patent or licence fees;

e) Compensation payable in accordance with Articles 4 and 5;

f) The remuneration received by nationals of the other Contracting Party for work or services done in connection with investments made in its territory, in accordance with its legislation.

2. The transfers referred to in the preceding Paragraph shall be made without delay, in the convertible currency, at the exchange rate prevailing on the date of the transfer in the territory of the Contracting Party where the investment was made.

Article 7. Subrogation

If a Contracting Party or its designated agency makes a payment to its investor by virtue of a guarantee given in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognize the assignment to the former Contracting Party or its designated agency of all rights and claims of the investor which that Contracting Party or its designated agency shall be entitled to exercise by virtue of subrogation to the same extend as the party indemnified

Article 8. Settlement of Disputes between the Contracting Parties

1. All disputes which may arise between the Contracting Parties concerning the interpretation and application of this Agreement shall be, as far as possible, settled amicably.

2. If the Contracting Parties cannot reach an agreement within six months after the beginning of negotiations, the dispute shall, upon 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 country who on approval by the 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 the necessary appointments have not been made within the periods specified in Paragraph 3 of this Article, 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 Consplotracting Party or if he is otherwise 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. The decisions of the tribunal are final and binding on both Contracting Parties. Each Contracting Party shall bear the costs of its own member of the tribunal and of its representation in the arbitral proceedings. The costs of the Chairman and remaining costs shall be borne in equal parts by the Contracting Parties.

6. Subject to the provisions of this Article, the tribunal shall determine its own procedure.

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

1. Any dispute which may arise between the investor of one Contracting Party and the other Contracting Party concerning

an investment of that investor in the territory of the former Contracting Party shall be settled amicably.

2. If such a dispute cannot be settled within a period of six (6) months from the date of request for settlement, the investor concerned may submit the dispute to:

a) The competent court of the Contracting Party;

b) An ad-hoc tribunal which shall be established under the Arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL). The Contracting Party declares its consent to the above mentioned International Arbitration of the submission of an investment dispute to this arbitration; orArbitration rules of the United Nations Commission on International Trade Law (UNCITRAL). The Contracting Party declares its consent to the above mentioned International Arbitration of the submission of an investment dispute to this arbitration; or

c) Conciliation or arbitration through the International Center for the Settlement of Investments Disputes (ICSID) established under the Convention on the Settlement of Investments Disputes between States and Nationals of other States, opened for signature in Washington D.C., on March 18, 1965, in case both Contracting Parties are parties to the said Convention.

3. The arbitral tribunal shall reach its decision on the basis of the national legislation of the Contracting Party which is a party to the dispute, the provisions of the present Agreement, as well as the general principals of international law.

4. The decision of the arbitral tribunal shall be final and binding on both parties to the dispute and the award shall be enforced in accordance with the domestic law of the Contracting Party concerned.

5 For the purposes of this Article, an "investment dispute" is defined as a dispute involving (a) the interpretation of application of an investment agreement between a Contracting Party and an investor of the other Contracting Party; (b) an alleged breach of any right conferred or created by this Agreement with respect to an investment; or (c) the interpretation or application of any investment authorization granted by a Party's foreign investment authority to such investor, provided that the denial of an investment authorization shall not in itself constitute an investment dispute unless such denial involves an alleged breach of any right conferred or created by the present Agreement.

Article 10. Application of other Rules

If the provisions of law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to this Agreement contain a regulation, whether general or specific, entitling investments made by investors of the other Contracting Party to a treatment more favourable than is provided for by this Agreement, such provisions shall, to the extent that they are more favourable, prevail over this Agreement.

Article 11. Application of the Agreement

This Agreement shall apply to all existing and future investments made by investors from one Contracting Party in the territory of the other Contracting Party.

Article 12. Entry Into Force, Duration and Termination

1. This Agreement shall enter into force on the thirtieth day after the day on which the Contracting Parties have notified each other that their constitutional requirements for the entry into force of this Agreement have been fulfilled.

2. This Agreement shall remain in force initially for a period of ten (10) years and shall be considered as renewed on the same terms for a period of ten (10) years and so forth, unless at least twelve (12) months before its expiration either Contracting Party notifies the other in writing of its intention to terminate the Agreement.

3. In respect of investments made prior to the date of termination of this Agreement the provisions of Articles 1 to 11 shall remain in force for a further period of ten (10) years from the date of termination of this Agreement.

Done in Sofia on 30 June 1998 in two originals in Slovenian, Bulgarian and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the Republic of Slovenia

Marjan Senjur, (s)

For the Government of the Republic of Bulgaria

Muravej Radev, (s)