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

The Government of the Italian Republic and the Government of the Republic of Slovenia (hereafter referred to as the Contracting Parties),

Desiring to establish favourable conditions for improved economic cooperation between the two Countries, and especially in relation to capital investment by investors of one Contracting Party in the territory of the other Contracting Party;

And

Acknowledging that offering encouragement and mutual protection to such investment, based on international Agreements, will contribute to stimulating business ventures, which foster the prosperity of both Contracting Parties,

Hereby have agreed as follows:

Article 1. Definitions

For the purposes of this Agreement:

1. The term "investment" shall be construed to mean any kind of property invested by a natural or legal person of a Contracting Party in the territory of the other Contracting Party, within all legal forms and legal possibilities, in conformity with the laws and regulations of that Contracting Party and shall include in particular, but not exclusively:

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

b) Shares, bonds and debentures and any other form of participation in a company;

c) Claims to money or any other performance having an economic value connected with an investment, as well as reinvested income;

d) Intellectual and industrial property rights such as copyrights, trade marks, patents, know-how, trade secrets, trade names and goodwill;

e) Concessions conferred by a competent State Authority, by law, by an administrative act or under a contract, including concessions for prospecting, research and exploitation of natural resources;

f) Any increase in value of the original investment.

Any modification in the form of the investment does not imply a change in the nature thereof.

2. The term "investor" shall be construed to mean any natural or legal person of a Contracting Party investing in the territory of the other Contracting Party.

a) The term "natural person", in reference to either Contracting Party, shall be construed to mean any natural person having nationality of that State in accordance with its laws and regulations.

b) The term "legal person", in reference to either Contracting Party, shall be construed to mean any entity having its head office in the territory of one of the Contracting Parties and recognized by it, such as public institutions, corporations, partnerships, foundations and associations, regardless of whether their liability is limited or not.

c) The term "legal person", in reference to either Contracting Party, shall be construed to mean also legal persons (e.g. the foreign subsidiaries, affiliates and branches) not constituted under the law of that Contracting Party but controlled directly or indirectly by natural persons as defined in a) or by legal persons as defined in b) above.

3. The term "income" shall be construed to mean the money occurring from an investment, including in particular profits, interests, capital gains, dividends, royalties payments, management and technical assistance compensation or other fees and payments in kind.

4. The term "national territory" means:

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 Italian Republic in addition to the zones contained within the land boundaries, the "maritime zones". The latter also comprises the marine and submarine zones over which the Italian Republic exercises sovereignty and sovereign or jurisdictional rights under international law.

5. "Investment agreement" means an agreement between a Contracting Party (or its agencies or institutions) and an investor of the other Contracting Party concerning an investment.

6. "Right of access" means the right to be admitted to carry out investment in the territory of the other Contracting Party in accordance with its laws and regulations.

Article 2. Promotion and Protection of Investments

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

2. Investors of one of the Contracting Parties shall have the right of access to the investment activities, in the territory of the other Contracting Party, not less favourable than the one granted in accordance to Article 3 (1).

3. Investments made by investors of either Contracting Party shall enjoy full protection and security in the territory of the other Contracting Party. Neither Contracting Party shall in any way 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.

Article 3. National Treatment and the Most Favoured Nation Treatment

1. Each Contracting Party shall, within its own territory, accord to investors and to investments effected by, and the income occurring to, investors of the other Contracting Party, no less favourable treatment than that accorded to investments effected by, and income occurring to, its own nationals or investors of Third States.

2. The provisions of this Article do not refer to the advantages and privileges which one Contracting Party may grant to investors of Third States by virtue of their membership of a Customs or Economic Union, of a Common Market, of a Free Trade Area, of a regional or subregional Agreement, of an International multilateral economic Agreement or under Agreements signed in order to prevent double taxation or to facilitate cross border trade.

3. Each Contracting Party shall accord at all times fair and equitable treatment to investments of investors of the other Contracting Party.

Article 4. Compensation for Damage or Losses

If investors of one Contracting Party incur losses or damages on their investments in the territory of the other Contracting Party due to war, other forms of armed conflict; a state of emergency, civil strife or other similar events, the Contracting Party in which the investment has been effected shall offer adequate compensation in respect of such losses or damages, irrespective whether such losses or damages have been caused by governmental forces or other subjects. Compensation payments shall be freely transferable without undue delay.

The investors shall receive the same treatment as the nationals of the other Contracting Party concerned and at all events, no less favourable than that of the investors of Third States.

Article 5. Nationalization or Expropriation

1. Investments of investors of either Contracting Party shall not be nationalized, expropriated or subjected to measures having effect equivalent to nationalization (hereinafter referred to as "expropriation") in the territory of the Contracting Party, except in the public interest. The expropriation shall be carried out under due process of law, on a non-discriminatory

basis, against adequate compensation which shall be effected without undue delay. 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 earlier (hereinafter referred to as the "valuation date").

Compensation shall be calculated in a convertible currency at the prevailing exchange rate existing on the "valuation date".

2. In case that the object of nationalization or expropriation is a joint-venture constituted in the territory of one of the Contracting Parties, the compensation to be paid to the investor of the other Contracting Party shall be calculated taking into account the share of such investor in the joint-venture, is accordance with main documents referring to its participation in the company.

Compensation shall be considered just and fair if it is paid in the currency in which a foreign investor realized the investment, or in any other currency accepted by the investor.

Compensation shall be made without undue delay, within the term not longer than 3 months from the date, on which the decision about its value, was made.

Compensation shall include interest calculated on the six months LIBOR basis, from the date of nationalization or expropriation till the date of payment effected.

3. The investor affected shall have a right, under the laws and regulations of the Contracting Party making the expropriation, to prompt review of his or its case by a judicial or other independent authority of that Contracting Party and to the evaluation of his or its investments in accordance with the principles set out in this Article.

4. If the investor and the Contracting Party or its competent body, cannot reach an agreement, the amount of compensation shall be determined according to procedure for settlement of disputes according to Article 9 of the Agreement.

Compensation shall be freely transferable.

5. If the expropriated property, either completely or partially, does not serve the anticipated purpose in public interest, according to decision on expropriation based on law, the expropriated owner and his or its assignee are allowed to buy back that property at the market value, according to the laws and regulations of the Contracting Party where the expropriation has been made.

Article 6. Repatriation of Capital, Profits and Income

1. Each Contracting Party shall guarantee investors of the other Contracting Party the free transfer of funds related to their investments and in particular, but not exclusively:

a) Capital and additional capital, including reinvested income, used to maintain and increase an investment;

b) Incomes as defined in Article 1 (3);

c) Income deriving from the total or partial sale or the total or partial liquidation of an investment;

d) Funds to repay loans connected to an investment and the payment of the related interests;

e) Remuneration and allowances paid to nationals of the other Contracting Party from work and services performed in relation to an investment effected in the territory of the other Contracting Party, in the amount and manner prescribed by the national legislation and regulations.

2. The transfer referred to in this Article shall be made without undue delay and in any convertible currency.

Article 7. Subrogation

If a Contracting Party or its designated agency makes a payment to its investor under 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 first Contracting Party of all rights and claims of the investor. The subrogated right or claim shall not be greater than the original right or claim of the investor.

Article 8. Transfer Procedures

1. The transfers referred to in Article 4, 5, 6 and 7 shall be effected without undue delay and, at all events, within three months after all tax obligations have been met, and shall be made in a convertible currency. All the transfers shall be made

at the prevailing exchange rate applicable on the date on which the investor applies for the related transfer, with the exception of the provisions under Paragraph 1 of Article 5 concerning the exchange rate applicable in case of nationalization or expropriation or measure having effect equivalent to nationalization.

2. The tax obligations under the previous paragraph are deemed to be complied with when the investor has fulfilled the proceedings provided for by the law of the Contracting Party on the territory of which the investment has been carried out.

Article 9. Settlement of Disputes between Investors and Contracting Parties

1. Any dispute which may arise between one of the Contracting Parties and the investors of the other Contracting Party on investments, including disputes relating to the amount of compensation, shall be settled amicably, as far as possible.

2. In case an investment agreement is stipulated according to Article 1 (5) the procedure foreseen in such investment agreement shall apply.

3. In the event that such dispute cannot be settled amicably within six months of the date of the written application for settlement, the investor may submit at his choice the dispute for settlement to:

a) The competent court of the Contracting Party;

b) An ad hoc Arbitral Tribunal, in compliance with the arbitration rules of the UN Commission on the International Trade Law (UNCITRAL); and the host Contracting Party undertakes hereby to accept the reference to said arbitration;

c) The International Center for the Settlement of Investments Disputes (ICSID), for the implementation of the arbitration procedure established under the Convention in the Settlement of Investments Disputes between States and Nationals of other States, opened for signature in Washington D.C., on March 18, 1965.

4. Each Contracting Party shall refrain from negotiating through diplomatic channels any matter relating to an arbitration procedure or judicial procedures underway until these procedures have been completed, and one of the Contracting Parties has failed to comply with the ruling of the Arbitral Tribunal or the Court of Law within the period envisaged by the ruling, or else within the period which can be determined on the basis of the international or domestic law provisions which can be applied to the case.

Article 10. Settlement of Disputes between the Contracting Parties

1. Any dispute which may arise between the Contracting Parties relating to the interpretation and application of this Agreement shall, as far as possible, be settled amicably through diplomatic channels.

2. In the event that the dispute cannot be settled within six months of the date on which one of the Contracting Parties notifies, in writing, the other Contracting Party, the dispute, at the request of one of the Contracting Parties, shall be submitted to an ad hoc Arbitral Tribunal as provided in this Article.

3. The Arbitral Tribunal shall be constituted in the following manner: within two months from the date on which the request for arbitration is received, each Contracting Party shall appoint a member of the Arbitral Tribunal. Those two members shall then select a national of a third State who, on approval by the Contracting Parties, shall be appointed President of the Tribunal. The President shall be appointed within three months of the date on which the other two members are appointed.

4. If, within the period specified in paragraph 3. of this Article, the appointments have not been made, each of the two Contracting Parties can, in default of other arrangement, ask the President of the International Court of Justice to make the appointment. In the event that the President of the Court is a national of one Contracting Party, or if he is otherwise prevented from discharging the said function; the application shall be made to the Vice President of the Court. If the Vice-President of the Court is a national of one of the Contracting Parties, or is unable to make the appointment for any reason, the most senior member of the International Court of Justice, who is not a national of either Contracting Party, shall be invited to make the appointment.

5. The Arbitral Tribunal shall rule with a majority vote, and its decisions shall be final and binding. Each Contracting Party shall pay the costs of their own members and of their representation in the arbitral proceedings. The President's costs and any other costs shall be divided equally between the Contracting Parties. The Arbitral Tribunal shall establish its own rules of procedures.

Article 11. Relations between the Contracting Parties

The provisions of this Agreement shall be applied irrespective of whether or not the Contracting Parties have diplomatic or consular relations.

Article 12. Application of other Provisions

1. If a matter is governed both by this Agreement and by another International Agreement to which both Contracting Parties are signatories, or by general principles of the international law, the most favourable provisions shall be applied to the Contracting Parties and to their investors.

2. Whenever the treatment accorded by one Contracting Party to the investors of the other Contracting Party, according to its laws and regulations or other provisions or specific contract or investment authorizations or agreement, is more favourable than that provided under this agreement, the most favourable treatment shall apply.

3. Whenever, after the date when the investment has been made, a modification should take place in the legislation of the Party on whose territory the investment has been carried out, acquired rights of the investor under previous legislation will not be affected.

Article 13. Application of the Agreement

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

Article 14. Entry Into Force and Duration

1. This Agreement shall enter into force as from the receiving date of the last of the two written notifications with which the Contracting Parties shall communicate officially to each other that their respective ratification procedures have been fulfilled. Any modification of this Agreement on which both Contracting Parties have agreed in written form, shall enter into force under the same conditions of this Agreement.

2. This Agreement shall remain effective for a period of 10 years and shall remain in force for further periods of 5 years thereafter, unless either of the two Contracting Parties decides to denounce it not later than one year before its expiry date.

3. In respect of investment made prior to the date of denouncement of this Agreement the provisions of Articles 1 to 13 shall remain in force for a further period of ten (10) years from the date of denouncement of this Agreement.

DONE at Rome, this 8th day of March, two thousand, in two originals, in Italian, Slovenian and English languages, each text being equally authentic.

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

For the Government of the Italian Republic

For the Government of the Republic of Slovenia

Protocol

In signing the Agreement between the Government of the Italian Republic and the Government of the Republic of Slovenia on the promotion and protection of investments, the Contracting Parties have also agreed the following clauses which form an integral part of the Agreement.

1. With Reference to Article 2

a) Each Contracting Party will provide effective means to make claims and assert rights relating to investments and investment agreements.

b) According to its own laws and dispositions, each Contracting Party will regulate, in the most favorable way possible, the questions concerning the entry, stay and movement of the citizens of a Contracting Party, who undertake activities related to investments in the territory of the other Contracting Party, and members of their families.

c) Companies legally established under the laws and regulations of a Contracting Party will be allowed to employ senior management of their choice, regardless of citizenship possessed, according to the legislation of the host Contracting Party.

2. With Reference to Article 3

a) The provisions of this Agreement will also apply to all activities related to investments. These activities include, in particular but not exclusively: organization, control, operation, maintenance and transfer of companies, branches, agencies, offices, establishments or other structures useful for the conduct of business, acquisition, use, protection and transfer of ownership of any type, including intellectual property, borrowing of funds, purchase, issue and sale of shareholdings and other securities, purchase of currency for importation.

b) All the activities concerning the purchase, sale and transportation of raw materials and their derivatives, energy, fuels, instrumental goods as well as any other form of operation to these relative and otherwise connected to business activities pursuant to this agreement they will enjoy, in the territory of each Contracting Party, a treatment no less favorable than that reserved for activities and initiatives similar to their own investors or those of Third States.

3. With Reference to Article 5

Any de facto expropriation or nationalization measure taken in the public interest, which creates a considerable loss to the investment, will be treated as one of the measures indicated in Art. 5 (1).

4. With Reference to Article 9

Pursuant to Article 9 (3) (b), the arbitration will be conducted according to the arbitration criteria of the United Nations Commission on International Commercial Law (UNCITRAL) as well as according to the following provisions:

a) The Arbitration Tribunal will be composed of three Arbitrators; if they are not citizens of each Contracting Party, they must be citizens of a State having diplomatic relations with both Contracting Parties. The designation of the Arbitrators, if necessary and according to the rules of UNCITRAL, must be made by the President of the Arbitration Institute of Stockholm, in his capacity as designated authority. The arbitration will take place in Stockholm, unless the two contracting parties have agreed otherwise.

b) In issuing its decision, the Arbitral Tribunal will apply the provisions of this Agreement, the general principles of international rights, as well as other agreements applied by both Contracting Parties. The recognition and application of the arbitration award in the territory of both Contracting Parties will take place on the basis of the respective legal systems, in compliance with the relevant International Conventions of which both parties are members.

5. With Reference to Article 13

Investors referred to in Art. 1 (2) (c) may not appeal to the application of this Agreement if, on the same matter, the provision of another Agreement on the promotion and protection of investments has been invoked.

IN WITNESS THAT the Subscribers, duly authorized by their respective Governments, have signed the present Protocol.

DONE in Rome on March 8, two thousand in two original versions, in the Italian, Slovenian and English languages, each text being equally authentic.

In case of any interpretation divergence the English text will prevail.

For the Government of the Italian Republic

For the Government of the Republic of Slovenia