

# GOVERNMENT OF CROATIAN

47

Pursuant to Article 42 of the conclusion and execution of international agreements ("Official Gazette", number 28/96), the Croatian Government at its session on 12 May 1997 adopted

## REGULATION

AGREEMENT BETWEEN THE CROATIAN GOVERNMENT AND THE GOVERNMENT OF THE REPUBLIC OF BOSNIA AND HERZEGOVINA and protection of investments

### Article first

Confirmed the Agreement between the Croatian Government and the Government of the Republic of Bosnia and Herzegovina on the promotion and reciprocal protection of investments, signed in Split on 26 February 1996, in the Croatian language

### Article 2nd

The text of the Agreement in the original in the Croatian language reads:

AGREEMENT BETWEEN THE CROATIAN GOVERNMENT AND THE GOVERNMENT OF THE REPUBLIC OF BOSNIA AND HERZEGOVINA on the promotion and reciprocal protection of investments

The Croatian Government and the Government of the Republic of Bosnia and Herzegovina (hereinafter: the Contracting Parties), wanting to promote mutual economic cooperation to the mutual benefit,

Having no intention to create favorable conditions for investments by investors of one Contracting Party in the territory of the other,

Recognizing the need to encourage and protect foreign investment in the economic development of the Contracting party

HAVE AGREED AS FOLLOWS:

### Article first

## DEFINITIONS

For the purposes of this Agreement:

1. The term "investor" in respect of both Contracting Parties relating to:

a) citizens of the Contracting Parties;

b) legal entities, including companies, corporations, business associations and other organizations that are incorporated or organized

Under the law of that Contracting Party or have their headquarters and performing real business activity in the territory of the same Contracting Party;

c) legal entities established under the law of any country in which the major part of the shares owned by the nationals of one Contracting Party or legal persons with a seat and carry out real economic activity in the territory of that Contracting Party.

2. The term "investment" refers to any property which is invested by investors of one Contracting Party, provided that the investment has been made to the laws and regulations of the other Contracting Party, and among other things includes:

- a) movable assets, real estate, guarantees and real rights such as usufruct, mortgages and liens;
- b) stocks, shares or any other form of participation in companies;
- c) claims to money or any performance having an economic value;
- d) copyrights, industrial property rights such as patents, utility models, industrial designs or models, trade marks or names, indications of source, knowledge (know-how) and reputation (goodwill);
- e) rights to engage in economic activities resulting from the approval of government authorities and include a license, for example, for exploration and exploitation of natural resources.

3rd Any change in the form of investments recognized by the laws and regulations of the Contracting Party in whose territory the investment is done, does not affect the nature of the investment.

4. The term "payment" means any amount of money that comes from investments, particularly, but not exclusively, profits, equity, dividends, bonuses, fees or other income.

5. The term "territory" means Croatian territory or the territory of the Republic of Bosnia and Herzegovina, as well as the area of the sea, including the seabed and subsoil, which is the outer limit of the territorial sea of any of the two countries, where under international law by the State shall exercise its sovereign rights of exploration and exploitation of natural resources and resources of these areas.

## Article 2nd

### Promotion and allow investments

1. Each Contracting Party shall in its territory encourage and allow investments by investors of the other Contracting Party in accordance with its legislation.

2. When a Contracting Party allows an investment in its territory, in accordance with their legislation, shall issue the necessary permits in connection with such investment, with the support of licensing agreements and contracts for technical, commercial or administrative cooperation,

Each Contracting Party shall, as appropriate, seek to issue the necessary approvals related to the activities of consultants or other qualified persons of foreign origin.

## Article 3rd

### PROTECTION AND CONDITIONS OF INVESTMENT

1. Each Contracting Party shall protect in its territory investments by investors of the other Contracting Party made in accordance with its legislation, and not discriminatory or illegal measures influence the management, maintenance, use, enjoyment, expansion, sale or, ultimately, the elimination of such investments.

2. Each Contracting Party shall ensure the fairness of the terms of the investment by investors of the other Contracting Party in its territory. Terms of the investment will not be less favorable than the conditions that each Contracting Party shall apply to investments of domestic investors or to investments of investors of any third state, if these conditions are more favorable.

3. The conditions most favored nation shall not apply to the privileges provided by itself Contracting Party to investors of third countries on the basis of their membership or association in a free trade area, customs union, regional market or under other multilateral agreements, which the other Contracting Party is not a party.

## Article 4th

### Expropriation and Compensation

1. No Contracting Party shall take measures of expropriation, nationalization or other measures of equal importance to investments by investors of the other Contracting Party, unless the measures are taken in the public interest, under due process of law, and if provided adequate compensation for expropriated property.

Such compensation shall correspond to the market value of the expropriated investment immediately before the expropriation procedure was published, and must include interest calculated on the basis of six-month LIBOR from the date when the expropriation was carried out, and must be fully transferable.

The amount of compensation will be determined in a freely convertible currency portable and will be paid immediately to the authorized person, regardless of his place of residence or temporary residence.

Payment of fees must be done without delay, which means a time period that is the normal course of things necessary to execute the transfer of funds to begin on the date of the request for compensation and shall not exceed three months.

2. investors of both Contracting Parties who suffer damage in investments in the territory of the other Contracting Party due to war, other armed conflict, a state of emergency in the country, riots, uprisings or unrest are entitled to compensation in the form of damages, compensation or other benefits, according to the conditions which can not be less favorable than those that are recognized for their own investors or investors of third countries.

Payment of those benefits will be made as soon as possible, without delay in a free portable convertible currency.

3rd Investors referred to in Article 1, paragraph 1, item c) of this Agreement can not apply for compensation under paragraphs 1 and 2 of this Article, if the fee was paid pursuant to the provisions of other agreements on protection of investments which was completed Contracting Party to whose territory the investment was made.

#### Article 5th

##### TRANSFER

1. Each Contracting Party in whose territory the investments will allow the investors of the other contracting parties, which are performed, these investments, free transfer of funds related to investments, in particular:

- a) role and an additional sum of money required for the maintenance and development of investments;
- b) earnings, profits, interest, dividends and other regular income;
- c) the amount for the return of the loan to a valid and documented contract that is directly related to a specific investment;
- d) contractual fee (royalties) and commissions;
- e) proceeds from the total or partial liquidation of an investment;
- f) the fees referred to in Article 4 of this Agreement;
- g) earnings of nationals of one Contracting Party which allows operation in the framework of investments in the territory of the other Contracting Party.

2. Transmittal must be completed and accounted for without delay, in the currency in which the investment is made or any other convertible currency acceptable to the investor, but at the rate the central bank Contracting Parties on the date of transfer, in accordance with the procedures prescribed by the Contracting Party in whose territory the investment is made, provided they do not include denial, temporarily delaying or denaturalization of such a transfer.

3. The Contracting Parties agree that the conditions in accordance with the execution of the transfer referred to in paragraphs 1 and 2 of this Article shall not be less favorable than the conditions agreed for the transfer arising from investments. investors of any third state.

#### Article 6th

##### ASSIGNMENT (Subrogation)

1. If one Contracting Party or an agency of that Contracting Party makes payment to any of its investors under a guarantee or insurance in accordance with the Investment Agreement, the other Contracting Party shall recognize the validity of such a transfer of rights (subrogation) on behalf of the Contracting Party or its agencies in respect the rights of all previous investors.

Contracting Party or agency of that Contracting Party to which the rights are transferred to investors subrogation, be entitled to the same rights as an investor, and would have made, must assume and perform all obligations to him from both the insured investment result.

2. In case of transfer of rights (subrogation) described in paragraph 1 of this Article, the investor is not entitled to file charges if this particular does not authorize a Contracting Party or agency contracting parties which took over the rights of contract.

#### Article seventh

Disputes between a Contracting Party and

Investor of the other Contracting Party

1. In the event of disagreement between one Contracting Party and investors of the other Contracting Party, the investor is required of the existence of such differences by writing, including detailed information, the contracting parties - host of investments.

Customers will primarily seek friendly resolve all differences arising from disagreement, consultation and negotiation, through diplomatic channels.

2. If the dispute can not be settled in this way within six (6) months from the date of the written notice referred to in paragraph 1 of this Article, the dispute resolution shall be subject to the choice of the investor:

a) the International Centre for Settlement of Investment disputes (The International Centre for Settlement of Investment Disputes - ICSID) under the Convention on the settlement of disputes with investments between States and Nationals of other States, provided that both parties have signed it;

b) arbitration ad hoc tribunal in accordance with the Arbitration pravilimaUNICITRAL's (the Arbitration Rules of Procedure of the United Nations Commission for International Law).

Third arbitration decision will be based on:

a) The provisions of this Agreement;

b) the national law of the Contracting Party in whose territory the investment has been made, including the rules on conflicts of law;

c) the rules and generally accepted principles of international law.

4. An award shall be final and binding on both parties to the dispute. Each Contracting Party shall execute the arbitral award under the regulations of national law.

Article 8th

Disputes between the parties

1. Disputes between the Contracting Parties relating to the interpretation and application of the provisions of this Agreement shall be settled by consultation and negotiation through diplomatic channels.

2. If the Contracting Parties can not reach agreement on the issues within six (6) months after the start of the conflict, the team will decide issues at the request of either Contracting Parties to the arbitral tribunal constituted as follows:

Each Contracting Party shall appoint one arbitrator, and the so-called arbitrators shall appoint a chairman who shall be a citizen of a third country that maintains diplomatic relations with both Contracting Parties.

3. If one Contracting Party fails to appoint an arbitrator or to respond to the invitation of the other Contracting Party to do so within two (2) months, the arbitrator at the request of the Contracting Parties who asked an arbitrator appointed by the President of the Tribunal.

4. If the appointed arbitrators can not agree on the choice of the Chairman within two (2) months of their appointment, shall be appointed by the request of either Contracting Party President of the Tribunal.

5. If the cases referred to in paragraphs 3 and 4 of this Article, the President of the International Court prevented from carrying out his duties or if he is a citizen of either Contracting Party, the Chairman shall appoint a Vice-President, in case of his inability, or belonging to one of the Contracting parties, the Chairman will appoint the most senior judge of the Court who is not a citizen of either Contracting party.

6. The arbitration tribunal shall determine the procedure in accordance with other arrangements between the Contracting Parties. The court will decide by majority vote.

7. The decision of the arbitration tribunal shall be final and binding on both parties.

8. Each party shall bear its own costs related to participation and representation in the arbitration proceedings. The cost of the Chairman and other costs will be shared equally Contracting Parties.

The court may decide that a higher proportion of costs shall be borne by one party to the contract-and such a decision is binding on both parties.

Article 9th

#### NEGOTIATIONS AND EXCHANGE OF INFORMATION

At the request of one Contracting Party the other Contracting Party shall promptly enter into negotiations regarding the interpretation and application of this Agreement.

At the request of one Contracting Party the other Contracting Party shall provide all necessary information on laws, regulations, decisions, administrative practices, procedures or policies whose application affects the investments covered by this Agreement.

Article 10.

#### ENTRY INTO FORCE

This Agreement shall enter into force on the date of the last written notification through diplomatic channels of one Contracting Party to the other and fulfill their legislation requirements for the entry into force of this Treaty.

1. This Agreement shall remain in force for a period of ten (10) years from the date of its entry into force and tacitly be extended thereafter for an additional ten (10) years, unless either Contracting Party notifies the diplomatic party of its intention to cancel the contract, and at least a year-nu days before the expiry of the first or any subsequent ten-year period. Notice of termination shall take effect and agreement shall be deemed notice the lapse of one year from the date the other Contracting Party received through diplomatic channels, notice of termination of the Agreement.

2. On investments made prior to the termination of the Agreement occurred, the provisions of this Agreement for a period of ten (10) years from the date of termination of this Agreement.

Signed in Split on 26 February 1996 in two original copies in Croatian language.

FOR THE GOVERNMENT

FOR THE GOVERNMENT

REPUBLIC OF CROATIAN

REPUBLIC OF BOSNIA AND

HERZEGOVINA

SPECIAL SUPPLEMENT

The contract between the Croatian Government and the Government of the Republic of Bosnia and Herzegovina on the Promotion and Reciprocal Protection of Investments

Point first

The Parties agree that this Agreement provisionally applies only to the territory of the Federation of Bosnia and Herzegovina, while the special agreement to regulate the issue and its application to the Serbian entity in Bosnia and Herzegovina.

In Split, February 26, in 1996.

For the Government

For the Government

The Croatian

Republic of Bosnia and Herzegovina

For the Government

Federation of Bosnia and Herzegovina

In witness whereof, the plenipotentiaries have signed this Agreement.

#### Article 3rd

For the execution of this Regulation is the Ministry of the Croatian economy.

#### Article 4th

This Regulation shall enter into force on the day of its publication in the "Official Gazette".

Class: 404-02 / 96-02 / 02

No: 5030114-97-1

Zagreb, 12 May, 1997.

President

Mr. Zlatko Matesa, in. r.

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c) legal entities established under the law of any country in which the major part of the shares owned by the nationals of one Contracting Party or legal persons with a seat and carry out real economic activity in the territory of that Contracting Party.

2. The term "investment" refers to any property which is invested by investors of one Contracting Party, provided that the investment has been made to the laws and regulations of the other Contracting Party, and among other things includes:

a) movable assets, real estate, guarantees and real rights such as usufruct, mortgages and liens;

b) stocks, shares or any other form of participation in companies;

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

d) copyrights, industrial property rights such as patents, utility models, industrial designs or models, trade marks or names, indications of source, knowledge (know-how) and reputation (goodwill);

e) rights to engage in economic activities resulting from the approval of government authorities and include a license, for example, for exploration and exploitation of natural resources.

3rd Any change in the form of investments recognized by the laws and regulations of the Contracting Party in whose territory the investment is done, does not affect the nature of the investment.

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3. The conditions most favored nation shall not apply to the privileges provided by itself Contracting Party to investors of third countries on the basis of their membership or association in a free trade area, customs union, zajedncikom market or under other multilateral agreements, which the other Contracting Party is not a party.

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- c) the amount for the return of the loan to a valid and documented contract that is directly related to a specific investment;
- d) contractual fee (royalties) and commissions;
- e) proceeds from the total or partial liquidation of an investment;
- f) the fees referred to in Article 4 of this Agreement;
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2. Transmittal must be completed and accounted for without delay, in the currency in which the investment is made or any other convertible currency acceptable to the investor, but at the rate the central bank Contracting Parties on the date of transfer, in accordance with the procedures prescribed by the Contracting Party in whose territory the investment is made, provided they do not include denial, temporarily delaying or denaturalization of such a transfer.

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Contracting Party or agency of that Contracting Party to which the rights are transferred to investors subrogation, be entitled to the same rights as an investor, and would have made, must assume and perform all obligations to him from both the insured investment result.

2. In case of transfer of rights (subrogation) described in paragraph 1 of this Article, the investor is not entitled to file charges if this particular does not authorize a Contracting Party or agency contracting parties which took over the rights of contract.

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Investor of the other Contracting Party

1. In the event of disagreement between one Contracting Party and investors of the other Contracting Party, the investor is required of the existence of such differences by writing, including detailed information, the contracting parties - host of investments.

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2. If the dispute can not be settled in this way within six (6) months from the date of the written notice referred to in paragraph 1 of this Article, the dispute resolution shall be subject to the choice of the investor:

a) the International Centre for Settlement of Investment disputes (The International Centre for Settlement of Investment Disputes - ICSID) under the Convention on the settlement of disputes with investments between States and Nationals of other States, provided that both parties have signed it;

b) arbitration ad hoc tribunal in accordance with the Arbitration pravilimaUNCITRAL's (the Arbitration Rules of Procedure of the United Nations Commission for International Law).

Third arbitration decision will be based on:

a) The provisions of this Agreement;

b) the national law of the Contracting Party in whose territory the investment has been made, including the rules on conflicts of law;

c) the rules and generally accepted principles of international law.

4. An award shall be final and binding on both parties to the dispute. Each Contracting Party shall execute the arbitral award under the regulations of national law.

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1. Disputes between the Contracting Parties relating to the interpretation and application of the provisions of this Agreement shall be settled by consultation and negotiation through diplomatic channels.

2. If the Contracting Parties can not reach agreement on the issues within six (6) months after the start of the conflict, the team will decide issues at the request of either Contracting Parties to the arbitral tribunal constituted as follows:

Each Contracting Party shall appoint one arbitrator, and the so-called arbitrators shall appoint a chairman who shall be a citizen of a third country that maintains diplomatic relations with both Contracting Parties.

3. If one Contracting Party fails to appoint an arbitrator or to respond to the invitation of the other Contracting Party to do so within two (2) months, the arbitrator at the request of the Contracting Parties who asked an arbitrator appointed by the President of the Tribunal.

4. If the appointed arbitrators can not agree on the choice of the Chairman within two (2) months of their appointment, shall be appointed by the request of either Contracting Party President of the Tribunal.

5. If the cases referred to in paragraphs 3 and 4 of this Article, the President of the International Court prevented from carrying out his duties or if he is a citizen of either Contracting Party, the Chairman shall appoint a Vice-President, in case of his inability, or belonging to one of the Contracting parties, the Chairman will appoint the most senior judge of the Court who is not a citizen of either Contracting party.

6. The arbitration tribunal shall determine the procedure in accordance with other arrangements between the Contracting Parties. The court will decide by majority vote.

7. The decision of the arbitration tribunal shall be final and binding on both parties.

8. Each party shall bear its own costs related to participation and representation in the arbitration proceedings. The cost of the Chairman and other costs will be shared equally Contracting Parties.

The court may decide that a higher proportion of costs shall be borne by one party to the contract-and such a decision is binding on both parties.

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Article 10.

#### ENTRY INTO FORCE

This Agreement shall enter into force on the date of the last written notification through diplomatic channels of one Contracting Party to the other and fulfill their legislation requirements for the entry into force of this Treaty.

1. This Agreement shall remain in force for a period of ten (10) years from the date of its entry into force and tacitly be extended thereafter for an additional ten (10) years, unless either Contracting Party notifies the diplomatic party of its intention to cancel the contract, and at least a year-nu days before the expiry of the first or any subsequent ten-year period. Notice of termination shall take effect and agreement shall be deemed notice the lapse of one year from the date the other Contracting Party received through diplomatic channels, notice of termination of the Agreement.

2. On investments made prior to the termination of the Agreement occurred, the provisions of this Agreement for a period of ten (10) years from the date of termination of this Agreement.

Signed in Split on 26 February 1996 in two original copies in Croatian language.

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SPECIAL SUPPLEMENT

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The Parties agree that this Agreement provisionally applies only to the territory of the Federation of Bosnia and Herzegovina, while the special agreement to regulate the issue and its application to the Serbian entity in Bosnia and Herzegovina.

In Split, February 26, in 1996.

For the Government

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In witness whereof, the plenipotentiaries have signed this Agreement.

Article 3rd

For the execution of this Regulation is the Ministry of the Croatian economy.

Article 4th

This Regulation shall enter into force on the day of its publication in the "Official Gazette".

Class: 404-02 / 96-02 / 02

No: 5030114-97-1

Zagreb, 12 May, 1997.

President

Mr. Zlatko Matesa, in. r.