A G R E E M E N T

BETWEEN

BOSNIA AND HERZEGOVINA

AND

THE REPUBLIC OF SLOVENIA

FOR THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

Bosnia and Herzegovina and the Republic of Slovenia (hereinafter referred to as the "Contracting Parties");

Desiring to create favourable conditions for greater economic cooperation 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

Recognising 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 laws and regulations 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 rights in rem such as mortgages, liens and pledges;

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

c) Claims to money or to any performance having an economic value, and associated with an investment;

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, administrative act or under contract, to undertake any economic and commercial 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 laws and regulations of the Contracting Party in whose territory the investment has been made.

2. The term "investor" shall mean:

a) In respect of Bosnia and Herzegovina:

i) natural persons deriving their status as Bosnia and Herzegovina citizens from the law in force in Bosnia and Herzegovina if they have permanent residence or main place of business in Bosnia and Herzegovina;

ii) legal persons, established in accordance with the laws in force in Bosnia and Herzegovina, which have their registered seat, central management or main place of business in the territory of Bosnia and Herzegovina.

b) In respect of the Republic of Slovenia:

i) natural persons having the nationality of the Republic of Slovenia in accordance with its laws;

ii) corporations, commercial companies or other companies or entities, with or without legal personality, which have their seat in the territory of the Republic of Slovenia and are incorporated or constituted in accordance with its laws.

3. The term "return" shall mean an amount yielded by an investment and in particular though not exclusively includes profit, interest, dividends, capital gains, royalties, proceeds from the sale or liquidation of all or any part of the investment and all other lawful income related to the investments.

4. The term "territory" shall mean:

a) In respect of Bosnia and Herzegovina: all land territory of Bosnia and Herzegovina, its territorial sea, whole bed and subsoil and air space above, including any maritime area situated beyond the territorial sea of Bosnia and Herzegovina which has been or might in the future be designated under the law of Bosnia and Herzegovina in accordance with international law as an area within which Bosnia and Herzegovina may exercise rights with regard to the seabed and subsoil and the natural resources.

b) In respect of 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.

Article 2

Promotion and protection of investments

1. Each Contracting Party shall encourage and promote investments in its territory by investors of the other Contracting Party and shall, in accordance with its law, admit such investments.

2. Each Contracting Party shall protect fully and constantly the investments made in accordance with its laws by investors of the other Contracting Party. Neither Contracting Party shall in any way impair by unreasonable or discriminatory measures the management, maintenance, use, enjoyment or disposal of investments in its territory of investors of the other Contracting Party.

The same treatment shall be applied to reinvestment of income and additional assets for expansion and maintenance of investments.

Article 3
National Treatment and Most Favoured Nation Status

1. Each Contracting Party shall ensure fair and equitable treatment within its territory to investments and returns of investors of the other Contracting Party. This treatment shall be in no case less favourable than that which, in like circumstances, it accords to the investments of its own investors or to the investments of investors of any third State, whichever is more favourable.

2. Neither Contracting Party shall subject investors of the other Contracting Party, as regards the management, maintenance, use, enjoyment or disposal of their investment in its territory to treatment less favourable than that which it accords to its own investors or to investors of any third State, whichever is more favourable.

3. The provision of this Article relative to the grant of treatment no less favourable than that accorded to the investors of either Contracting Party or of any third State, or to their investments, shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party, or to their investments, the benefit of any treatment, preference or privilege resulting from:

a) Any existing or future customs or economic union, free trade area or regional economic integration agreement or similar international agreement to which either Contracting Party is or may become a party;

b) Agreements relating wholly or mainly to taxation.

Article 4
Compensation for losses

1. Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses including damages, owing to war or any other form of armed conflict, revolution, a state of emergency, revolt, insurrection, riot or other similar events in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party as regards restitution, indemnification or compensation treatment no less favourable than that

which it accords to its own investors or to investors of any third State.

2. Without prejudice to paragraph 1 of this Article, investors of one Contracting Party who, in any of the situations referred to in that paragraph, suffer losses in the territory of the other Contracting Party, resulting from:

a) Requisitioning of their property by its forces or authorities, or

b) Destruction of their property by its forces or authorities, which was not caused in combat action or was not required by the necessity of the situation,

shall be accorded by the latter Contracting Party restitution or compensation which in either case shall be prompt, adequate and effective.

Article 5
Expropriation and compensation

1. Investments of investors of either Contracting Party shall not be nationalised, expropriated or subjected to measures having an effect equivalent to nationalisation 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 referred to in paragraph 1 of this Article shall be computed on the basis of the fair market value of the investment immediately before the expropriation became public knowledge, shall be payable from the date of expropriation in convertible currency or in the currency in which the investment was made, with interest at the applicable rate provided by law, regulations or otherwise agreed to by the Contracting Parties until the date of payment, shall be paid without delay and shall be effectively realisable and freely transferable.

3. The investor whose investments are expropriated, shall have the right under the law of expropriating Contracting Party to prompt review by a judicial or other competent authority of that Contracting Party concerning the legality of the expropriation, its process and the valuation of its investments in accordance with the principles set out in this Article.

Article 6
Transfers

1. Pursuant to its laws and after the fulfilment of all taxation obligations and the requirements of the exchange regulations, each Contracting Party shall guarantee to investors of the other Contracting Party a free transfer of funds related to their investments, including:

a) Initial capital and additional contributions for the maintenance or development of the investments;
b) Returns;
c) Funds in repayment of loans related to an investment;
d) Any compensation or other payment referred to in Articles 4 and 5 of this Agreement;
e) Payments arising out of the settlement of a dispute;
f) Earnings and other remuneration of nationals engaged from abroad in connection with

the investment.

2. Transfers shall be effected without delay in the convertible currency in which the capital was originally invested. Unless otherwise agreed to by the investor, transfers shall be made at the market rate of exchange applicable on the date of transfer.

3. The Contracting Parties undertake to accord to such transfers treatment no less favourable than that accorded to transfers originating from investments made by investors of any third State.

4. In the event the exchange regulations of one Contracting Party are modified, that Contracting Party guarantees to apply such modified exchange regulations or the exchange regulations which were in force on the day the current investment was made, whichever are more favourable.

Article 7
Subrogation

1. If one Contracting Party or its designated agency (hereinafter referred to as the "First Contracting Party") makes a payment to an investor of that Contracting Party under a guarantee or a contract of insurance against non-commercial risks, granted in respect of an investment, the other Contracting Party shall recognise, notwithstanding its rights under Article 9 of this Agreement, the validity of the subrogation in favour of the First Contracting Party to any right or title held by the investor. The First Contracting Party shall be entitled to exercise such rights and enforce such claims by virtue of subrogation to the same extent as the party indemnified.

2. Where the First Contracting Party has made a payment to its investors and has taken over the rights and claims of the investor, that investor shall not, unless authorised to act on behalf of the First Contracting Party making the payment, pursue those rights and claims against the other Contracting Party.

Article 8
Settlement of disputes between an investor and a Contracting Party

1. Any dispute which may arise between one Contracting Party and an investor of the other Contracting Party concerning an investment of that investor in the territory of the former Contracting Party shall be settled amicably through negotiations.

2. If such dispute cannot be settled within three (3) months from the date of a written request for settlement, the investor concerned may submit the dispute to:

a) The competent court or administrative tribunal of the Contracting Party in the territory of which the investment has been made; or

b) An ad-hoc tribunal which, unless otherwise agreed upon by the parties to the dispute, shall be established under the Arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL); or

c) The International Centre for the Settlement of Investment Disputes (ICSID) through

conciliation or arbitration, established under the Convention on the Settlement of Investment Disputes between States and Nationals of other States (the "ICSID Convention"), opened for signature in Washington D.C., on March 18, 1965.

3. Each Contracting Party hereby consents to the submission of an investment dispute to international conciliation or arbitration.

4. Neither Contracting Party shall pursue through diplomatic channels any matter referred to arbitration until the proceedings have terminated and a Contracting Party has failed to abide by or to comply with the award rendered in those proceedings.

5. A legal person which is constituted or organised under the law of the Contracting Party party to the dispute, and which, before a dispute between it and that Contracting Party arises, is controlled by investors of the other Contracting Party, shall for the purpose of Article 25(2)(b) of the ICSID Convention be treated as a "national of another Contracting State".

6. The arbitration award shall, unless the parties to the dispute agree otherwise, be based on:

- the provisions of this Agreement;

- the laws of the Contracting Party, party to the dispute, including its rules on the conflict of laws; and

- the rules and universally accepted principles of international law.

7. A Contracting Party shall not assert as a defence, counter-claim, right of set-off or for any other reason, that indemnification or other compensation for all or part of the alleged damages has been received or will be received pursuant to an indemnity, guarantee or contract of insurance.

8. The award shall be final and binding on both parties to the dispute and shall be recognised and enforced in accordance with internal and international law.

Article 9
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, as far as possible, be settled amicably.

2. If the Contracting Parties cannot reach an agreement within six months from the date of the request for settlement, the dispute shall, upon request of either Contracting Party, be submitted to an arbitral tribunal of three members.

3. Such 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 Contracting Party or is 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 cost of its own member of the tribunal and of its representation in the arbitral proceedings. The cost of the Chairman and remaining costs shall be borne in equal parts by the Contracting Parties.

6. A dispute shall not be submitted to an international arbitral tribunal under the provisions of this Article, if the same dispute has been brought before another international arbitral tribunal under the provisions of Article 8 and is still before the tribunal. This will not impair the possibility of dispute settlement in accordance with paragraph 1 of this Article.

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

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 investments made by investors from one Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations, whether existing at or made after the date of its entry into force. However, this Agreement shall not apply to any act or fact which took place or any situation which ceased to exist before the date of its entry into force and is related to the investments.

Article 12
Entry into force, duration and termination

1. This Agreement shall enter into force on the first day of the next calendar month following the month of receipt of the latter of the two notifications with which the Contracting Parties notify each other that the requirements of their national legislation for the entry into force of the Agreement have been fulfilled.

2. This Agreement shall remain in force initially for a period of ten years, and shall be considered

as renewed on the same terms for a period of ten years and so forth, unless notice of termination has been given by either Contracting Party at least six months before the date of expiry of any of the periods of its validity.

3. In respect of investments made while this Agreement is in force, the provisions of Articles 1 through 11 shall remain in force for a further period of ten years after the date of termination and without prejudice to the application thereafter of the rules of general international law.

4. This Agreement may be amended by written agreement between the Contracting Parties. Any amendment shall enter into force under the same procedure required for entering into force of the present Agreement.

5. This Agreement shall be applied irrespective of whether or not the Contracting Parties have diplomatic or consular relations.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective authorities, have signed this Agreement.

Done in duplicate at ..... on .....200..., in the English language.

For Bosnia and Herzegovina: **For the Republic of Slovenia:**