AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF

INDIA

AND

THE FEDERAL GOVERNMENT OF

THE FEDERAL REPUBLIC OF YUGOSLAVIA

FOR

THE RECIPROCAL PROMOTION AND

PROTECTION

OF INVESTMENTS

The Government of Republic of India and the Federal Government of the Federal Republic of Yugoslavia (hereinafter referred to as the "Contracting Parties");

Desiring to create conditions favourable for fostering greater investment by investors of one Contracting Party in the territory of the other Contracting Party;

Recognising that the encouragement and reciprocal protection under this agreement of such investment will be conducive to the stimulation of individual business initiative and will increase prosperity in both Contracting Parties;

Have agreed as follows:

ARTICLE 1
Definitions

For the purposes of this Agreement:

(a) the term "investment" means every kind of asset established or acquired including changes in the form of such investment, in accordance with the national laws of the Contracting Party in whose territory the investment is made and in particular, though not exclusively, includes:

(i) movable and immovable property as well as other rights in rem such as mortgages, liens or pledges;

(ii) shares in and stocks and debentures of a company and any other similar forms of participation in a company;

(iii) claims to money or to any performance under contract having a financial value;

(iv) intellectual property rights, such as copyrights and related rights and Industrial property rights, in accordance with the laws of the respective Contracting Parties;

(v) business concessions, including concessions to search for and extract oil, minerals and other natural resources conferred by law or under contract in accordance with the laws of the host Contracting Party;

(b) the term "investors" shall mean any national or a legal entity who invests in the territory of the other Contracting Party-

(i) "national" means natural persons deriving their status as nationals of the Contracting Party according to its applicable laws.

(ii) "legal entity" means legal persons incorporated or constituted or established under the law in force in either Contracting Party and having their seat in the territory of that Contracting Party and making investment in the territory of the other Contracting Party.

(c) the term “returns” shall mean the amounts yielded by an investment and in particular though not exclusively includes profit, interest, capital gains, dividends, royalties and such other similar fees;

(d) "territory" means:

(i) in respect of Republic of India: the territory of the Republic of India including its territorial waters and the airspace above it and other maritime zones including the Exclusive Economic Zone and continental shelf over which the Republic of India has sovereignty, sovereign rights or exclusive jurisdiction in accordance with its laws in force, the l982 United Nations Convention on the Law of the Sea and International Law.

(ii) in respect of 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 Contracting Party exercise, in accordance with its national laws and regulations and international law, sovereign rights or jurisdiction.

ARTICLE 2
Scope of the Agreement

(1) This agreement shall apply to all investments by investors of one Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations whether made before or after its entry into force.

(2) This Agreement shall not apply to any investment dispute that may have arisen or any claim, which was settled before its entry into force.

ARTICLE 3
Promotion and Protection of Investment

(1) Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory, and admit such investments in accordance with its laws and policy.

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

ARTICLE 4
National Treatment and Most-Favoured-Nation Treatment

(l) Each Contracting Party shall accord to investments and returns of investors of the other Contracting Party, treatment which shall not be less favourable than that accorded either to investments and returns of its own investors or to investments and returns of investors of any third State.

(2) Each Contracting Party shall accord to the investments of investors of the other Contracting Party, as regards management, maintenance, use, enjoyment or disposal of an investment, treatment which shall not be less favourable than that which it accords to investments of its own investors or investments of investors of any third State.

(3) The provisions of paragraphs (l) and (2) above shall not be construed so as to oblige one Contracting Party to extend to the investors of the other the benefit of any treatment, preference or privilege resulting from:

(a) The customs union, free trade zone, monetary union or similar international Agreement establishing such unions or other forms of regional co-operation to which either of the Contracting Parties is or may become a party, or

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

ARTICLE 5
Expropriation

(1) Investments of investors of either Contracting Party shall not be nationalised, expropriated or subjected to measures having effect equivalent to nationalisation or expropriation (hereinafter referred to as " expropriation") in the territory of the other Contracting Party except for a public purpose in accordance with law on a non-discriminatory basis and against fair and equitable compensation. 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 the earlier, shall include interest at a market rate until the date of payment, shall be made without unreasonable delay, effectively realizable and be freely transferable in convertible currency.

(2) The investor affected shall have right, under the law of the Contracting Party making the expropriation, to review, by a judicial or other independent authority of that Party, of his or its case and of the valuation of his or its investment in accordance with the principles set out in this article. The Contracting Party making the expropriation shall make every endeavour to ensure that such review is carried out promptly.

ARTICLE 6
Compensation for Losses

Investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, a state of national emergency or civil disturbances, revolt, insurrection or riot in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, no less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State. Resulting payments shall be freely transferable in convertible currency.

ARTICLE 7
Repatriation of Investment and Returns

(l) Each Contracting Party shall, in accordance with its laws and regulations, ensure all funds of an investor of the other Contracting Party related to an investment in its territory to be freely transferred , without unreasonable delay and on a non-discriminatory basis. Such funds may include:

(a) Capital and additional capital amounts used to maintain and increase investments;

(b) Returns;

(c) Repayments of any loan including interest thereon, relating to the investment;

(d) Proceeds received by investors in case of sale or partial sale or liquidation of their investments;

(e) The earnings and other remuneration of personnel engaged from abroad in connection with an investment.

(f) Payments made pursuant to Articles 5 and 6 of this Agreement.

(2) Unless otherwise agreed to between the parties, currency transfer under paragraph (1) of this Article shall be permitted in the currency of the original Investment or any other convertible currency. Such transfer shall be made at the prevailing market rate of exchange on the date of transfer.

ARTICLE 8
Subrogation

Where one Contracting Party or its designated agency has guaranteed any indemnity against non-commercial risks in respect of an investment by any of its investors in the territory of the other Contracting Party and has made payment to such investors in respect of their claims under this Agreement, the other Contracting Party agrees that the first Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights and assert the claims of those investors. The subrogated rights or claims shall not exceed the original rights or claim of such investors. Payments, if any, under this Article shall be freely transferable in convertible currency.

ARTICLE 9
Settlement of Disputes Between an Investor and a Contracting Party

(1) Any dispute between an investor of one Contracting Party and the other Contracting Party in relation to an investment of the former under this Agreement shall, as far as possible, be settled amicably through negotiations between the parties to the dispute.

(2) Any such dispute which has not been amicably settled within a period of six months may be submitted:

(a) for resolution, in accordance with the law of the Contracting Party which has admitted the investment to that Contracting Party's competent judicial, arbitral or administrative bodies; or

(b) to International conciliation under the Conciliation Rules of the United Nations Commission on International Trade Law (UNCITRAL).

(3) Should the Parties fail to agree on a dispute settlement procedure provided under paragraph (2) of this Article or where a dispute is referred to conciliation but conciliation proceedings are terminated other than by signing of a settlement agreement, the dispute may be referred to Arbitration. The Arbitration procedure shall be as follows:

(a) If the Contracting Party of the Investor and the other Contracting Party are both parties to the Convention on the Settlement of Investment Disputes between States and nationals of other States opened for signature at Washington D.C. on 18th March 1965(ICSID Convention), and the investor consents in writing to submit the dispute to the International Centre for the Settlement of Investment Disputes such a dispute shall be referred to the Centre; or

(b) If both parties to the dispute so agree, under the Additional Facility rules of the ICSID Convention for the Administration of Conciliation, Arbitration and Fact-Finding proceedings; or

(c) to an ad hoc arbitral tribunal by either party to the dispute in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) 1976, subject to the following modifications:

(i) The appointing authority under Article 7 of the Rules shall be the President, the Vice-President or the next senior Judge of the International Court of Justice, who is not a national of either Contracting Party. The third arbitrator shall not be a national of either Contracting party.

(ii) The parties shall appoint their respective arbitrators within two months.

(iii) The arbitral award shall be made in accordance with the provisions of this Agreement . The award shall be final and binding on both parties to the dispute and shall be enforced in accordance with the laws and regulations of the Contracting Party in whose territory the investment has been made.

(iv) The arbitral tribunal shall state the basis of its decision and give reasons upon the request of either party.

ARTICLE l0
Disputes Between the Contracting Parties

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement should, as far as possible, be settled through negotiation.

(2) If a dispute between the Contracting Parties cannot thus be settled within six months from the time the dispute arose, it shall upon the 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 three 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 State who on approval by the two 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 within the periods specified in paragraph (3) of this Article the necessary appointments have not been made, 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 if he too 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 on the basis of the provisions of this Agreement as well as of the generally accepted principles and rules of international law. The arbitration tribunal shall decide by a majority of votes. Such decisions shall be 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 the remaining costs shall be borne in equal parts by the Contracting Parties. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting Parties, and this award shall be binding on both Contracting Parties. The tribunal shall determine its own procedures.

ARTICLE 11
Entry and Sojourn of Personnel

Each Contracting Party shall, subject to its laws and regulations, permit entry and authorisation to reside, work and travel to the natural persons of the other Contracting Party and personnel employed from abroad by investors of the other Contracting Party for the purpose of engaging in activities connected with investments and for the duration essential.

ARTICLE 12
Applicable Laws

(1) Except as otherwise provided in this Agreement, all investment shall be governed by the laws in force in the territory of the Contracting Party in which such investments are made.

(2) Notwithstanding paragraph (1) of this Article nothing in this Agreement precludes the host Contracting Party from taking action for the protection of its essential security interests or in circumstances of extreme emergency in accordance with its laws normally and reasonably applied on a non discriminatory basis.

ARTICLE l3
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 the present Agreement contain rules, whether general or specific, entitling investments by investors of the other Contracting Party to a treatment more favourable than is provided for by the present Agreement, such rules shall to the extent that they are more favourable prevail over the present Agreement.

ARTICLE l4
Entry into Force

This Agreement shall be subject to ratification and shall enter into force on the date of exchange of Instruments of Ratification.

ARTICLE l5
Duration and Termination

(1) This agreement shall remain in force for a period of ten years and thereafter it shall be deemed to have been automatically extended unless either Contracting Party gives to the other Contracting Party a written notice of its intention to terminate the Agreement. The Agreement shall stand terminated one year from the date on receipt of such written notice.

(2) Notwithstanding termination of this Agreement pursuant to paragraph (1) of this Article, the Agreement shall continue to be effective for a further period of ten years from the date of its termination in respect of investments made or acquired before the date of termination of this Agreement.

In witness whereof the undersigned, duly authorised thereto by their respective Governments , have signed this Agreement.

Done at Belgrade on this 31 day of January of 2003, in two originals each in the Hindi, Serbian and English languages, both texts being authentic.

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

For the Government of the Republic of India	For the Federal Government of the Federal Republic of Yugoslavia
sd/-	sd/-