

**AGREEMENT**  
**BETWEEN THE SOCIALIST FEDERATIVE REPUBLIC**  
**OF YUGOSLAVIA AND THE FEDERAL REPUBLIC OF**  
**GERMANY ON RECIPROCAL PROTECTION AND**  
**PROMOTION OF INVESTMENTS**

The Socialist Federative Republic of Yugoslavia and the Federal Republic of Germany,  
Desiring to deepen economic cooperation between the Contracting Parties,  
Striving to create favourable conditions for mutual investments,  
Convinced that reciprocal protection and promotion of investments will contribute to  
strengthening of economic incentive,  
Have agreed as follows:

**Article 1**

(1) The term "investment" shall mean any kind of assets value invested in accordance with national regulations of the Contracting Party, and in particular, though not exclusively, shall include:

- a) ownership of movable and immovable property and any other property rights such as any kind of lien and similar rights,
- b) right of participation in companies, as well as similar types of investments,
- c) right to money used for the creation of economic value or to services and in-kind benefits having economic value, and in connection with the investment,
- d) copyrights and industrial property rights, such as inventors rights, including patents, trade marks, trade names, industrial designs and models, technical processes, know-how and goodwill,
- e) public and legal concessions, including concessions regarding the use of natural resources.

Alteration of the form of investment shall not affect the character of investment in terms of this Agreement.

(2) The term "returns" shall mean the amounts yielded by an investment and shall include in particular, though not exclusively, profit, dividends, interests, fees for licence and other similar fees.

(3) The term "investor", shall, according to national regulations of the Contracting Parties, mean:

- a) in respect of the Socialist Federative Republic of Yugoslavia

- 1) a natural person having the nationality of the Socialist Federative Republic of Yugoslavia,

2) a legal entity constituted in accordance with Yugoslav regulations,

b) in respect of the Federal Republic of Germany

1) Germans with residence in the area of validity of this Agreement,

2) a legal entity, commercial or other organisation or association with or without legal entity status, having its seat in the area of validity of this Agreement, regardless of whether or not its business activity is focused on profit, and investing assets in the territory of the other Contracting Party in accordance with its national regulations.

## **Article 2**

(1) A Contracting Party shall in its territory, in accordance with its possibilities, encourage investments of investors of the other Contracting Party, admit such investments in accordance with its regulations and in any case treat such investments in a fair and equitable manner.

(2) Investments and their returns shall enjoy full protection of this Agreement. The same shall apply to reinvested returns and additional funds for extension or maintenance of investments.

(3) Neither Contracting Party shall in its territory impair by unreasonable and discriminatory measures the management and use of investments of investors of the other Contracting Party.

## **Article 3**

(1) Each Contracting Party shall accord to investments of investors of the other Contracting Party or investments involving investors of the other Contracting Party treatment no less favourable than that which it accords to its own investments and investments of investors of any third State.

(2) Each Contracting Party shall treat investors of the other Contracting Party in relation to their operation concerning investments no less favourably than its own investors or investors of any third State.

(3) The provisions of paragraph (1) of this Article shall not refer to privileges and benefits that one Contracting Party provides to investments and investors of a third State on the basis of:

a) its membership in customs union, common market and free trade area, or on the basis of membership in an economic community,

b) agreement on the avoidance of double taxation or other agreements on tax matters.

## **Article 4**

(1) Investments of investors of one Contracting Party shall enjoy full protection and security in the territory of the other Contracting Party.

(2) Investments of investors of one Contracting Party in the territory of the other Contracting

Party may be expropriated, nationalised or subjected to other measures having effect equivalent to expropriation or nationalisation only in public interest and with compensation. The compensation must be proper and must correspond to value of the expropriated investment on the day of publication of the decision on expropriation, nationalisation or any similar measure. Compensation must be made without undue delay and collection and free transfer must be provided. An investor whose property is expropriated shall be entitled to the usual bank interest up to the date of payment of compensation. The legality of the expropriation or other similar measure and the amount of compensation shall be examined, upon the request of the investor, in the regular legal procedure of the Contracting Party.

(3) Investors of one Contracting Party who suffer losses in the territory of the other Contracting Party as regards their investments owing to war or to other armed conflict, revolution, a state of emergency or insurrection, shall not be treated less favourably than investors of this Contracting Party or investors of any third State, as regards indemnification or other compensation.

## **Article 5**

(1) Each Contracting Party shall guarantee to investor of the other Contracting Party free transfer of payments related to the investment, and in particular, though not exclusively:

- a) capital and additional amounts needed to maintain or extend investments,
- b) returns,
- c) repayment of loans approved in respect of the investment,
- d) cash assets from the total or partial liquidation or disposal of the investment,
- e) compensations paid under Article 4 of this Agreement.

(2) Transfers shall be made without undue delay, at the exchange rate applicable on the date of transfer.

## **Article 6**

If one Contracting Party makes a payment of indemnification to its investor on the basis of guarantee for investment in the territory of the other Contracting Party, the second Contracting Party shall, without violating the rights of the first mentioned Contracting Party referred to in Article 8 of this Agreement, recognise the transfer of all rights and claims of this investor by virtue of law or pursuant to a legal transaction to the first mentioned Contracting Party. The second Contracting Party shall recognise the subrogation of the first Contracting Party to all rights and claims of the legal predecessor on the same ground and amount. The provision of Article 5 of this Agreement shall apply to transfer of payments in respect of the transferred rights and claims.

## **Article 7**

(1) If the national regulation of the Contracting Parties or an international agreement in which both Contracting Parties participate provides investor of the other Contracting Party or its investment more favourable treatment than the treatment under this Agreement, this regulation shall prevail over this Agreement.

(2) Each Contracting Party shall comply with any obligation assumed with regard to the investments of the investor of the other Contracting Party in its territory.

## **Article 8**

(1) Disputes between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled through the Governments of the two Contracting Parties.

(2) If a dispute cannot be settled within the meaning of paragraph (1) of this Article, it shall, upon the request of either Contracting Party, be submitted to an arbitral tribunal.

(3) The arbitral tribunal shall be established on a case-by-case basis, provided that each Contracting Party shall appoint one member, and the two members shall select by mutual agreement a national of a third State as Chairman, who shall then be appointed by the Governments of both Contracting Parties. The members shall be appointed within two months and the Chairman shall be appointed within three months after one Contracting Party says to the other Contracting Party that the dispute will be brought before the arbitral tribunal.

(4) In case of non-compliance with 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 the necessary appointments. If the President is a national of either Contracting Party or is otherwise prevented, the Vice-President shall make the appointments. If the Vice-President is also a national of either Contracting Party or if he too is prevented, the member of the International Court of Justice next in seniority, who is not a national of either Contracting Party, shall make the appointment.

(5) The arbitral tribunal shall reach the decision by a majority of votes. The decision of the arbitral tribunal shall be binding. The arbitral tribunal shall lay down its own work procedure regarding the other issues.

(6) Each Contracting Party shall bear the costs of its own member and his representative in the arbitration proceedings and the costs of the Chairman and the other costs shall be borne in equal parts by the Contracting Parties. The tribunal may determine a different solution for bearing costs.

(7) With regard to the provision of Article 27, paragraph 1 of the Convention on the Settlement of Investment Disputes between States and Nationals of other States, from 18th March 1965, the arbitral tribunal provided may not be convened if an agreement under Article 25 of the Convention has been reached between an investor of one Contracting Party and the other Contracting Party. There remains the possibility that the arbitral tribunal can be convened in the event of non-compliance with the award of the arbitral tribunal on the basis of the mentioned Convention (Article 27) or in the event of transfer of rights under law or legal transaction under Article 6 of this Agreement.

## **Article 9**

(1) Disputes concerning investment between one Contracting Party and an investor of the other Contracting Party shall, if possible, be settled amicably between the parties in dispute.

(2) If the dispute cannot be settled within six months from the date of its announcement by one party to the dispute, it shall be submitted to arbitration under the Convention on the Settlement of Investment Disputes between States and Nationals of other States, from 18th March 1965, upon the request of investor of the other Contracting Party.

(3) The award of the arbitral tribunal shall be binding and not subject to any other legal means or remedies other than those provided for in the above Convention. The award of the arbitral tribunal shall be enforced in accordance with national law.

(4) The Contracting Party participating in the dispute shall not, at the time of the arbitration dispute or enforcement of the award of the arbitral tribunal, put forward the objection that the investor of the other Contracting Party has received compensation from insurance for part of the damage or for the whole damage.

## **Article 10**

This agreement shall be valid regardless of whether there are diplomatic or consular relations between the Contracting Parties.

## **Article 11**

This Agreement shall apply to investments made by investors of one Contracting Party in the territory of other Contracting Party, in accordance with its regulations, prior to the entry into force of this Agreement.

## **Article 12**

This agreement shall be valid, with the exception of the provision of item 5 of the Protocol, if it refers to air traffic, and for the region of Berlin, if the Government of the Federal Republic of Germany does not give a contrary statement to the Federal Executive Council of the Assembly of the Socialist Federative Republic of Yugoslavia, within three months from the date of entry into force of this Agreement.

## **Article 13**

(1) This Agreement shall be subject to ratification. The instruments of ratification shall be exchanged in Bonn.

(2) This Agreement shall enter into force one month from the date of exchange of instruments of ratification. The Agreement shall remain in force for 10 years. After that period, the validity of the Agreement shall be extended for an indefinite period, unless notice of termination is given in writing by one Contracting Party at least 12 months prior to expiration. After the expiration of 10 years, the Agreement may be cancelled at any time with the deadline of 12 months.

(3) In respect of investments made until the moment of termination of this Agreement, Articles 1 to 12 shall be valid for further 15 years from termination of this Agreement.

Done in duplicate at Belgrade, on 10th July 1989, in Serbo-Croatian and German language, all

texts being equally authentic.

For the Socialist Federative  
Republic of Yugoslavia,  
**Dzevad Mujezinovic**, m. p.

For the Federal Republic  
of Germany,  
**Dr Dieter von Wurzen**, m. p.

**PROTOCOL**  
**TO THE AGREEMENT BETWEEN THE SOCIALIST  
FEDERATIVE REPUBLIC OF YUGOSLAVIA AND THE  
FEDERAL REPUBLIC OF GERMANY ON RECIPROCAL  
PROTECTION AND PROMOTION OF INVESTMENTS,  
WHICH IS AN INTEGRAL PART OF THE AGREEMENT**

(1) Ad Article 2

The Agreement shall also apply to areas of exclusive economic zone and epicontinental shelf in the extent to which the international law permits the respective Contracting Party to exercise sovereign rights or sovereign authorities in these areas.

(2) Ad Article 3

(a) Limitation of receiving raw and auxiliary materials, energy and fuel, any kind of means of production or operation, interference with the turnover of goods, utilisation of loan and employment of workers, as well as other measures having similar effect shall in particular be considered to be treatment less favourable within the meaning of Article 3. Measures that are adopted for reasons of public security and order, public health or morality shall not be considered to be treatment less favourable within the meaning of Article 3.

(b) Management, use and utilisation of investments shall in particular, though not exclusively, be considered as operation within the meaning of Article 3.

(c) The provisions of Article 3 shall not bind a Contracting Party to extend tax benefits and exemptions accorded under the tax laws only to investors residing in its territory to investors residing in the territory of other Contracting Party.

(d) The Contracting Parties shall, within their regulations, give sympathetic consideration to applications for entry into the country and stay of persons of one Contracting Party who want to travel to the territory of the other Contracting Party directly in connection with an investment, and the same shall apply for workers of one Contracting Party who directly in connection with an investment want to travel to the territory of the other Contracting Party and stay there in order to do the work as workers. Applications for work permits shall also be given sympathetic consideration.

(3) Ad Article 4

The investor shall be entitled to compensation even when state measures are taken to intervene in the company in which he participates and thus considerably reducing his investment.

(4) Ad Article 5

Transfer under Article 5 shall be made within the period required for carrying out the procedure in relation to the transfer. The period shall start by submission of the appropriate request and end no later than by the expiration of three months.

(5) In the transport of goods and persons in connection with the investments, a Contracting Party shall not preclude and interfere with transport companies of the other Contracting Party and, if necessary, shall issue licenses for carrying out the transport.

Done in duplicate at Belgrade, on 10th July 1989, in Serbo-Croatian and German language, all texts being equally authentic.

For the Socialist Federative  
Republic of Yugoslavia,  
**Dzevad Mujezinovic**, m. p.

For the Federal Republic  
of Germany,  
**Dr Dieter von Wurzen**, m. p.