

30 Annex - External relations

247. DECREE PROMULGATING THE LAW ON RATIFICATION OF THE AGREEMENT BETWEEN THE FEDERAL GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA AND THE GOVERNMENT OF THE SLOVAK REPUBLIC IN RELATION TO PROMOTION AND MUTUAL PROTECTION OF INVESTMENTS

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BETWEEN THE FEDERAL GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA
AND THE GOVERNMENT OF THE SLOVAK REPUBLIC IN RELATION TO PROMOTION AND
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30.

Pursuant to Article 96 item 2 of the Constitution of the Federal Republic of Yugoslavia, I hereby issue:

DECREE

**PROMULGATING THE LAW ON RATIFICATION OF THE AGREEMENT BETWEEN THE
FEDERAL GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA AND THE
GOVERNMENT OF THE SLOVAK REPUBLIC IN RELATION TO PROMOTION AND MUTUAL
PROTECTION OF INVESTMENTS**

I hereby promulgate the Law on ratification of the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Slovak Republic in relation to Promotion and Mutual Protection of Investments, adopted by the Federal Assembly, in the session of the Council of Citizens of 29 August 1996 and in the session of the Council of Republics of 29 August 1996.

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No 253	President
29 August 1996	of the Federal Republic of Yugoslavia
Belgrade	Zoran lilac, m. p.

LAW

ON RATIFICATION OF THE AGREEMENT BETWEEN THE FEDERAL GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA AND THE GOVERNMENT OF THE SLOVAK REPUBLIC IN RELATION TO PROMOTION AND MUTUAL PROTECTION OF INVESTMENTS

Article 1

This is to ratify the Agreement between the Federal Government of the Federal Republic of Yugoslavia and the Government of the Slovak Republic in relation to Promotion and Mutual Protection of Investments, signed on 31 January 1996 in Belgrade, in the original in Serbian, Slovak and English.

Article 2

The Agreement text in the original in Serbian reads as follows:

AGREEMENT

BETWEEN THE FEDERAL GOVERNMENT OF THE FEDERAL REPUBLIC OF YUGOSLAVIA AND THE GOVERNMENT OF THE SLOVAK REPUBLIC IN RELATION TO PROMOTION AND MUTUAL PROTECTION OF INVESTMENTS

The Federal Government of the Federal Republic of Yugoslavia and the Government of the Slovak Republic (hereinafter referred to as: "Parties to the Agreement"),

Anxious to intensify economic cooperation to the mutual benefit of both countries,

Desirous of creating and maintaining favourable conditions for the investments of the investors of one country in the territory of the other country, and

Aware that promotion and mutual protection of investments pursuant to this Agreement shall stimulate business initiatives in this area,

Have agreed as follows:

Article 1

Definitions

For the purpose of this Agreement:

1. The expression "investments" shall comprise all types of funds invested by the investor of one Party to the Agreement in the territory of the other Party to the Agreement in conformity with the laws and regulations of the latter, and especially shall comprise, although not exclusively:

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- (a) movable and real estate property, as well as all other property rights such as mortgages, pledges and guarantees,
- (b) shares, stocks and bonds of the companies or any other form of a share in a company,
- (c) financial claims or claims for any services having an economic value,
- (d) intellectual property which, among others, comprises rights referring to: copyrights, trademarks, business secret, trade name, patents, industrial models, know-how, good-will, technological processes and confidential business information referring to investments,
- (e) any right given in conformity with law, including concessions for researches, mine-working, processing or exploiting of natural resources.

Any change of form that the investment is made in, shall not influence their character of investments.

- 2. The expression "investor" shall stand for any natural person or legal entity of one Party to the Agreement making investments in the territory of the other Party to the Agreement:
 - (a) The expression "natural person" shall stand for each natural person having citizenship of the Party to the Agreement in conformity with its laws.
 - (b) The expression "legal entity", in relation to the Party to the Agreement, shall stand for each body established or constituted in conformity with its laws recognizing it as a legal entity.
- 3. The expression "returns" shall stand for the amount brought by an investment and especially, although not exclusively, shall comprise profit, interest, gain from capital, shares, dividends, royalties or commission fees.

Article 2

Improvement and protection of investments

- 1. Each Party to the Agreement shall stimulate and create favourable conditions for the investors of the Party to the Agreement to make investments in its territory and approve of such investments in conformity with its laws and regulations.
- 2. The investments of the investors of any Party to the Agreement shall enjoy, at any time, equitable and fair treatment, full protection and security in the territory of the Party to the Agreement.

Article 3

National treatment and the most favoured nation treatment

- 1. Each Party to the Agreement shall provide in its territory the investments and investors of the other Party to the Agreement a treatment no less favourable than the one it provides to its own investments and investors, or the

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investments and investors of the third countries, depending on which one is more favourable.

2. Each Party to the Agreement shall provide, in its territory, the investors of the other Party, in regard of management, maintenance, exploitation, enjoyment or disposal of their investments, a treatment no less favourable than the one provided to its own investors or the investors of the third countries, depending on which one is more favourable.
3. Provisions of paragraph 1 and 2 of this Article shall not be interpreted so to oblige one Party to the Agreement to give the investors of the other Party to the Agreement, any preference in treatment, preferentials or privileges that the former Party to the Agreement may provide to:
 - (a) customs union, free trade zone or monetary union or any similar international agreement founding such unions or institutions or other forms of regional cooperation, whose signatory any Party to the Agreement is or may become,
 - (b) any international agreement or arrangement referring in its entirety or mostly to taxation, or any national law referring in its entirety or mostly to taxation.

Article 4

Retrieval of losses

1. When the investments of any Party to the Agreement suffer losses due to war, armed conflict, national state of emergency, rebellion, uprising or riots or any other similar events in the territory of the other Party to the Agreement, the latter Party to the Agreement shall provide them a treatment, with regard to return, reimbursement, compensation or any other way of loss retrieval, no less favourable than the one the other Party to the Agreement provide to its own investors or the investors of any third country.
2. Without prejudging provisions of paragraph 1 of this Article, the investor of one Party to the Agreement suffering losses in any of the cases mentioned in that paragraph, in the territory of the other Party to the Agreement, as a result of:
 - (a) confiscation of its property by the forces or authorities of the other Party to the Agreement;
 - (b) destruction of its property by the forces or authorities of the other Party to the Agreement having not arisen from combative operations or being not necessary due to situation,

shall be given an equitable and adequate retrieval of losses suffered during the period of confiscation or due to property destruction.

3. Each payment realized pursuant to paragraph 1 and 2 of this Article shall be made without unnecessary delay and shall be freely transferable in convertible currencies.

Article 5

Expropriation

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1. Investments of the investors of any Party to the Agreement shall not be nationalized, expropriated, or subjected to measures by effect equal to nationalization or expropriation (hereinafter referred to as: expropriation) in the territory of the other Party to the Agreement, except in public interest. Expropriation shall be conducted with enforcement of law, on non-discriminatory basis, and shall be adequately and efficiently compensated. Such a compensation shall be equal to the market value amount of the expropriated investment, immediately prior to expropriation or before the forthcoming expropriation becomes widely known fact, and shall include the interest according to usual, commercial rates, from the expropriation date, and shall be conducted with no delay, immediately collectible and freely transferable in convertible currencies.
2. The investor who has suffered damage shall be entitled to require from a judicial or any other independent body of the Party to the Agreement in whose territory the investment has been made, to make with no delay a consideration of his/her case and evaluation of his/her investment in accordance with principles defined in this Article.

Article 6

Transfers

1. Each Party to the Agreement, upon payment of all fiscal and other obligations of the investors of the other Party to the Agreement, shall guarantee the investors of the other Party a free transfer of payments referring to their investments and returns. Those transfers shall include especially but not exclusively:
 - (a) capital and additional amounts for maintenance or enlargement of investments;
 - (b) returns;
 - (c) funds from loan discharges;
 - (d) returns from sale and liquidation of investments;
 - (e) salaries of natural persons, subjected to regulations and laws of the Party to the Agreement where the investment has been made;
 - (f) compensations paid for the purpose of Article 4 and 5 of this Agreement;
 - (g) all payments realized on behalf of the investor in relation to Article 7 of this Agreement.
2. Transfers shall be performed with no unnecessary delay in any convertible currency, according to the market exchange rate applicable on the transfer day.

Article 7

Subrogation

1. If a Party to the Agreement, or its appointed institution, makes payment to its own investors according to a guarantee approved for the investment in the

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territory of the other Party to the Agreement, the other Party to the Agreement shall recognize:

- (a) assignment according to law or in conformity with legal transaction of any right or claim of the investor of the former Party to the Agreement or its appointed institution, and
 - (b) that the former Party to the Agreement, or its appointed institution according to subrogation, shall be empowered to realize the rights and claims of the investor and shall take obligations referring to the investments.
2. Subrogated rights or claims shall not exceed prime rights or obligations of the investor.

Article 8

Settlement of investment disputes between one Party to the Agreement and an investor of the other Party to the Agreement

1. Each dispute arisen between the investors of one Party to the Agreement and the other Party to the Agreement, in relation to an investment in the territory of the other Party to the Agreement, shall be settled through negotiations between the parties in dispute.
2. If the dispute between the investors of one Party to the Agreement fails to be settled in that manner within 6 (six) month period following the date of a written notice on the claim, the investor shall be entitled to submit the dispute to:
 - (a) International Centre for settlement of investment disputes (ICSID), founded in accordance with the Convention of settlement of investment disputes between countries and the other countries' citizens, opened to signing in Washington on 18 March 1965, when each Party to the Agreement became a signatory of the Convention mentioned, or
 - (b) any international arbiter or ad hoc arbitration court established in accordance with Arbitration regulations of the UN Commission for the International Trade Law (UNCITRAL).
 - (c) The decision shall be final and binding for both parties in dispute.

Article 9

Settlement of disputes between the Parties to the Agreement

1. If possible, any disputes between the Parties to the Agreement, with regard to interpretation or application of this Agreement shall be settled through consultations or negotiations.
2. If a dispute fails to be settled within 6 (six) months following the date of request for consultations or negotiations of any of the Parties to the Agreement, the dispute shall be submitted, at the request of any Party to the Agreement, to the Arbitration court, according to provisions of this Article.
3. Arbitration Court shall be constituted for each individual case as follows. Within two months following the reception of a request for arbitration, each Party to the Agreement shall appoint a member to the court. Those two

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members afterwards shall select a citizen of a third country who, with approval of both Parties to the Agreement, shall be appointed the president of the court (hereinafter referred to as: "president"). The president shall be appointed within three months following the date of appointment of the first two members.

4. If the necessary appointments defined in paragraph 3 of this Article fail to be done, it is possible to submit a request to the president of the International Court of Justice to perform the appointment. If he/she is a citizen of any of the Parties to the Agreement or in any way unable to perform the mentioned function, the vice president shall be asked to perform the appointment. If the vice president appears also to be a citizen of any of the Parties to the Agreement or in any way unable to perform the mentioned function, a member of the International Court of Justice, subsequent according to seniority, being not a citizen of any of the Parties to the Agreement, shall be invited to perform the appointment.
5. Arbitration Court shall make its decision by majority of vote. Such a decision shall be binding. Each Party to the Agreement shall bear costs of its own arbiter and its representing in an arbitration procedure, and the costs of the president and other costs shall be equally at the expense of both Parties to the Agreement. Arbitration court shall define its own procedure.

Article 10

Application of other rules and specific obligations

1. When an issue is simultaneously regulated with this Agreement and the other international agreement whose signatories are both Parties to the Agreement, no part of this Agreement shall prevent any Party to the Agreement or any of its investors having investments in the territory of the other Party to the Agreement to apply the provisions being more favourable.
2. If a treatment one Party to the Agreement shall be to provide the investors of the other Party to the Agreement, in conformity with its laws and regulations or any other specific provisions of the Agreement, is more favourable than the one provided by the Agreement, more favourable treatment shall apply.

Article 11

Application of the Agreement

Provisions of this Agreement shall apply to the investments made by the investor of one Party to the Agreement in the territory of the other Party to the Agreement before, as well as after its entry into force, but shall not apply to any disputes with regard to investments, arisen before its entry into force.

Article 12

Entry into force, continuation and expiration of the Agreement

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1. Each Party to the Agreement shall inform the other Party to the Agreement on completion of a legal procedure for entry into force of this Agreement. This Agreement shall enter into force on the date of the second notice.
2. This Agreement shall stay in force within a ten year period and shall continue to be in force after that, unless a year before the expiration of an initial or any additional five year period, any of the Parties to the Agreement informs the other one, in written, on its intention to terminate the Agreement.
3. For the investments made before termination of validity of this Agreement, provisions of Articles 1 to 11 shall stay in force within a ten year period following the date of its validity termination.

As ratification of the abovementioned, the undersigned persons, properly empowered, signed this Agreement.

Done in two original copies, on the day of 30 January 1996, in Belgrade, in Serbian, Slovak and English, where all texts shall be equally authentic. In case of any discrepancy in interpretation, the text in English shall prevail.

For the Federal Government of
The Federal Republic of
Yugoslavia,
Radoje Kontic, m. p.
For the Government of
The Slovak Republic
Vladimir Mecijar, m. p.

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Article 3

This law shall enter into force on the eighth day following that of its publication in the Official Gazette of the Federal Republic of Yugoslavia – International Agreements.