

INVESTMENT INCENTIVE AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE REPUBLIC OF BULGARIA

The Government of the United States of America and the Government of the Republic of Bulgaria affirm their common desire to encourage economic activities in the Republic of Bulgaria which promote the development of the economic resources and productive capacities of the Republic of Bulgaria. Recognizing that this developmental objective can be promoted through investment insurance (including reinsurance), loans and guaranties which are backed in whole or in part by the credit or public monies of the United States of America and administered by the Overseas Private Investment Corporation ("OPIC"), an agency of the United States of America, (or pursuant to arrangements between OPIC and private companies), the parties signatory hereto agree as follows:

ARTICLE 1

As used in this Agreement, the term "Coverage" shall refer to any investment insurance, reinsurance or guaranty which is issued in accordance with this Agreement by OPIC, by any successor agency of the United States of America or by any other entity or group of entities, pursuant to arrangements with OPIC or any successor agency. In this Agreement, the term "Issuer" shall refer to OPIC and any such successor agency, entity or group of entities to the extent of their interest as insurer, reinsurer, or guarantor in any Coverage, whether as a party or successor to a contract providing Coverage or as an agent for the administration of Coverage.

ARTICLE 2

The procedures set forth in this Agreement shall apply only with respect to Coverage relating to projects or activities registered with or otherwise approved by the Government of the Republic of Bulgaria. In the case of Coverage relating to projects with respect to which the Government of the Republic of Bulgaria, or any agency or political subdivision thereof, has entered into a contract involving the provision of goods or services or invited tenders on such a contract, the required registration or approval shall be conclusively presumed to exist.

ARTICLE 3

(a) If the Issuer makes payment to any party under Coverage, the Government of the Republic of Bulgaria shall, subject to the provisions of Article 4 hereof, recognize the transfer to the Issuer of any currency, credits, assets, or investment on account of which payment under such Coverage is made as well as the succession of the Issuer to any right, title, claim, privilege, or cause of action existing, or which may arise, in connection therewith.

(b) The Issuer shall assert no greater rights than those of the transferring party under Coverage with respect to any interests transferred or succeeded to under this Article. Nothing in this Agreement shall limit the right of the Government of the United States of America, distinct from any rights it may have as Issuer, or the right of the Government of the Republic of Bulgaria to assert a claim under international law in their sovereign capacities.

(c) The Issuer shall not be subject to regulation under the laws of the Republic of Bulgaria applicable to insurance or financial organizations; provided, that, in the event the Issuer is not an agency of the Government of the United States of America or another public international financial institution, (i) the activities are directly related to the implementation of this Agreement; and (ii) such activities are not performed through branches located in the Republic of Bulgaria of privately owned entities or groups of entities.

(d) Interest and fees on loans made or guaranteed by the Issuer shall be exempt from tax in the Republic of Bulgaria. The Issuer shall not be subject to tax in the Republic of Bulgaria for any transfer or succession which occurs pursuant to Article 3(a) hereof. Tax treatment of other transactions conducted by the Issuer in the Republic of Bulgaria shall be determined by applicable law or specific agreement between the Issuer and appropriate fiscal authorities of the Government of the Republic of Bulgaria.

ARTICLE 4

To the extent that the laws of the Republic of Bulgaria partially or wholly invalidate or prohibit the acquisition from a party under Coverage of any interest in any property within the territory of the Republic of Bulgaria by the Issuer, the Government of the Republic of Bulgaria shall permit such party and the Issuer to make appropriate arrangements pursuant to which such interests are transferred to an entity permitted to own such interest under the laws of the Republic of Bulgaria.

ARTICLE 5

(a) Amounts in the lawful currency of the Republic of Bulgaria, including credits thereof, acquired by the Issuer by virtue of such Coverage shall be accorded treatment by the Government of the Republic of Bulgaria no less favorable as to use and conversion than the treatment to which such funds would be entitled in the hands of the party under Coverage.

(b) Such amounts and credits may be transferred by the Issuer to any person or economic, government, intergovernmental or other entity and upon such transfer shall be freely available for use by such person or entity in the territory of the Republic of Bulgaria; provided, however, that a transfer to such person or entity is not prohibited ordinarily by Bulgarian law.

(c) Notwithstanding the provisions of Article 2, the provisions of this Article 5 also shall apply to any amounts and credits in the lawful currency of the Republic of Bulgaria which may be accepted by the Issuer in settlement of obligations with respect to loans made by the Issuer for projects in the Republic of Bulgaria.

ARTICLE 6

(a) Any dispute between the Government of the United States of America and the Government of the Republic of Bulgaria regarding the interpretation of this Agreement or which, in the opinion of one of the Governments, involves a question of public international law arising out of any project or activity for which Coverage has been issued shall be resolved, insofar as possible,

through negotiations between the two Governments. If, at the end of six months following the request for negotiations, the two Governments have not resolved the dispute by agreement, the dispute, including the question of whether such dispute presents a question of public international law, shall be submitted, at the initiative of either Government, to an arbitral tribunal for resolution in accordance with Article 6(b).

(b) The arbitral tribunal for resolution of disputes pursuant to Article 6(a) shall be established and function as follows:

(i) Each Government shall appoint one arbitrator; these two arbitrators shall designate a president by common agreement who shall be a citizen of a third state and whose appointment shall be subject to acceptance by the two Governments. The arbitrators shall be appointed within three months and the president within six months of the dates of receipt of either Government's request for arbitration. If the appointments are not made within the foregoing time limits, either Government may, in the absence of any other agreement, request the Secretary-General of the International Center for the Settlement of Disputes to make the necessary appointment or appointments, and both Governments agree to accept such appointment or appointments.

(ii) The arbitral tribunal shall base its decision on the applicable principles and rules of public international law. The arbitral tribunal shall decide by majority vote. Its decision shall be final and binding.

(iii) During the proceedings, each of the Governments shall pay the expense of its arbitrator and of its representation in the proceedings before the arbitral tribunal shall be paid in equal parts by the two Governments. In its award, the arbitral tribunal may, in its discretion, reallocate expenses and costs between the two Governments.

(iv) In all other matters, the arbitral tribunal shall regulate its own procedures.

ARTICLE 7

This Agreement shall continue in force until terminated by either party hereto. Either party may terminate the Agreement at any time after 10 years from the date on which it enters into force; provided that at least six months's prior notice of termination has been given through diplomatic channels. In such event, the provisions of the Agreement with respect to Coverage issued while the Agreement was in force shall remain in force for the duration of such Coverage, but in no case longer than twenty years after the termination of the Agreement.

This Agreement shall enter into force on the date on which the Government of the Republic of Bulgaria communicates to the Government of the United States of America that its constitutional or other legal requirements with regard to this Agreement have been fulfilled.

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

Done at Sofia, in duplicate, in the English and Bulgarian languages, both texts being equally authentic, on this seventh day of June, 1991.

For the Government of
THE UNITED STATES OF AMERICA

For the Government of
THE REPUBLIC OF BULGARIA

