

## INVESTMENT GUARANTIES

**Agreement Between the  
UNITED STATES OF AMERICA  
and MONTENEGRO**

Signed at Washington and Brussels  
March 23 and 29, 2000



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966  
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

## **MONTENEGRO**

### **Investment Guaranties**

*Agreement signed at Washington and Brussels  
March 23 and 29, 2000;  
Entered into force March 29, 2000.*

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

**THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE  
GOVERNMENT OF THE REPUBLIC OF MONTENEGRO (THE "PARTIES"),**

**AFFIRMING** their common desire to encourage economic activities in the Republic of Montenegro that promote the development of the economic resources and productive capacities of the Republic of Montenegro; and

**RECOGNIZING** that this objective can be promoted through investment support provided by the Overseas Private Investment Corporation ("OPIC"), a development institution and an agency of the United States of America, in the form of investment insurance and reinsurance, debt and equity investments, and investment guaranties;

**HAVE AGREED** as follows:

**ARTICLE 1**

As used in this Agreement, the following terms have the meanings herein provided. The term "Investment Support" refers to any debt or equity investment, any investment guaranty, and any investment insurance or reinsurance which is provided by the Issuer in connection with a project in the territory of Montenegro. The term "Issuer" refers to OPIC and any successor agency of the United States of America, and any agent of either. The term "Taxes" means all present and future taxes, levies, imposts, stamp, duties, and charges, whether direct or indirect, imposed in the Republic of Montenegro and all liabilities with respect thereto.

## ARTICLE 2

The parties hereto confirm their understanding that the Issuer's activities are governmental in nature and therefore:

(a) The Issuer shall not be subject to regulation under the laws of or effective within the Republic of Montenegro applicable to insurance or financial organizations, but, in the provision of Investment Support, shall be afforded all rights and have access to all remedies of any such entity, whether domestic, foreign or multilateral.

(b) The Issuer, all operations and activities undertaken by the Issuer in connection with any Investment Support, and all payments, whether of interest, principal, fees, dividends, premiums, proceeds from the liquidation of assets, or of any other nature, that are made, received, or guaranteed by the Issuer in connection with any Investment Support shall be exempt from Taxes, whether imposed directly on the Issuer or payable in the first instance by others. Neither projects receiving Investment Support nor investors in such projects shall be exempt from Taxes by operation of this Article; provided, however, that any Investment Support shall be accorded tax treatment no less favorable than that accorded to the investment support of any other national or multilateral development institution which operates in the Republic of Montenegro. The Issuer shall not be subject to Taxes in connection with any transfer, succession, or other acquisition which occurs pursuant to paragraph (c) of this Article or Article 3(a) hereof, but obligations for Taxes previously accrued and unpaid with respect to interests received by the Issuer shall not be extinguished as a result of such transfer, succession or other acquisition.

(c) If the Issuer makes a payment to any person or entity, or exercises its rights as a creditor or subrogee, in connection with any Investment Support, the Republic of Montenegro shall recognize the transfer to, or acquisition by, the Issuer of any cash, accounts, credits, instruments or other assets in connection with such payment or the exercise of such rights, 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.

(d) With respect to any interests transferred to the Issuer or any interests to which the Issuer succeeds under this Article, the Issuer shall assert no greater rights than those of the person or entity from whom such interests were received, provided that nothing in this Agreement shall limit the right of the Government of the United States of America to assert a claim in its sovereign capacity, as distinct from any rights it may have as the Issuer pursuant to paragraph (c) of this Article.

### ARTICLE 3

(a) Amounts in the currency of the Republic of Montenegro, including cash, accounts, credits, instruments, or otherwise, acquired by the Issuer upon making a payment or upon the exercise of its rights as a creditor in connection with any Investment Support provided by the Issuer for a project in the Republic of Montenegro shall be accorded treatment in the territory of Montenegro no less favorable as to use and conversion than the treatment to which such funds would have been entitled in the hands of the person or entity from which the Issuer acquired such amounts.

(b) Such currency and credits may be transferred by the Issuer to any person or entity and upon such transfer shall be freely available for use by such person or entity in the territory of the Republic of Montenegro in accordance with its laws.

### ARTICLE 4

(a) Any dispute between the Government of the United States of America and the Government of the Republic of Montenegro regarding the interpretation or application of this Agreement arising out of any project or activity for which Investment Support has been provided shall be resolved, insofar as possible, through negotiations. If, six months following a request for negotiations hereunder, the dispute has not been resolved, the dispute shall be submitted, at the initiative of either party, to an arbitral tribunal for resolution in accordance with paragraph (b) of this Article.

(b) The arbitral tribunal referred to in paragraph (a) of this Article shall be established and shall function as follows:

(i) Each party shall appoint one arbitrator. These two arbitrators shall by agreement designate a president of the tribunal who shall be a citizen of a state other than the United States of America and the Republic of Montenegro and whose appointment shall be subject to acceptance by the two parties. The arbitrators shall be appointed within three months, and the president within six months, of the date of receipt of either party's request for arbitration. If the appointments are not made within the foregoing time limits, either party may, in the absence of any other agreement, request the Secretary-General of the International Centre for the Settlement of Investment Disputes to make the necessary appointment or appointments. Both parties hereby agree to accept such appointment or appointments.

(ii) Decisions of the arbitral tribunal shall be made by majority vote and shall be based on the applicable principles and rules of international law. Its decision shall be final and binding.

(iii) During the proceedings, each party shall bear the expense of its arbitrator and of its representation in the proceedings before the tribunal, whereas the expenses of the president and other costs of the arbitration shall be paid in equal parts by the two parties. In its award, the arbitral tribunal may reallocate expenses and costs between the two parties.

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

#### ARTICLE 5

(a) This Agreement shall enter into force on the date of signature by both parties.

(b) This Agreement shall continue in force until six months from the date of a receipt of a note by which one party informs the other of an intent to terminate this Agreement. In such event, the provisions of this Agreement shall, with respect to Investment Support provided while this Agreement was in force, remain in force so long as such Investment Support remains outstanding, but in no case longer than twenty years after the termination of this Agreement.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective principals, have signed this Agreement.

DONE at Washington, District of Columbia, on the 23rd day of March, 2000, and Brussels, Belgium, on the 29 day of March, 2000, in duplicate, in the English language. A text of this Agreement shall be prepared in the official language of the Republic of Montenegro, which shall be considered equally authentic upon an exchange of notes confirming its conformity with the English language text.

**FOR THE GOVERNMENT OF  
THE UNITED STATES OF  
AMERICA:**



**FOR THE GOVERNMENT OF  
THE REPUBLIC OF MONTENEGRO:**

