

AGREEMENT
FOR
INVESTMENT SUPPORT FOR PROJECTS IN KOSOVO
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE UNITED NATIONS INTERIM ADMINISTRATION MISSION IN
KOSOVO

THE GOVERNMENT OF THE UNITED STATES OF AMERICA and THE UNITED NATIONS INTERIM ADMINISTRATION MISSION IN KOSOVO ("UNMIK"),

AFFIRMING their common desire to encourage economic activities in Kosovo, Federal Republic of Yugoslavia, that promote the development of the economic resources and productive capacities of Kosovo; 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, coinsurance 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, reinsurance, or coinsurance that is provided by the Issuer (or, in the case of coinsurance, is provided by the Issuer and commercial insurance companies ("Coinsurers") under coinsurance arrangements under which the Issuer acts both for itself and for such Coinsurers) in connection with a project in the territory of Kosovo; provided, however that no Coinsurer shall be entitled to the benefits of this Agreement except through the Issuer. The term "Issuer" refers to OPIC and any successor agency of the Government of the United States of America. The term "Taxes" means all present and future taxes, duties, and charges, whether direct or indirect, imposed in the territory of Kosovo.

ARTICLE 2

The Government of the United States of America and UNMIK confirm their understanding that the Issuer's activities are governmental in nature and therefore:

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

(b) All operations and activities undertaken by the Issuer in connection with any Investment Support, and all payments, whether of interest, principal, fees, dividends, premiums or the 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 and shall not be subject to withholding requirements. Neither projects receiving Investment Support nor investors in such projects shall be exempt from Taxes by operation of this Article. However, any Investment Support provided by the Issuer 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 territory of Kosovo. 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, UNMIK shall recognize the transfer to, or acquisition by, the Issuer and any Coinsurer 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 and any Coinsurer to any right, title, claim, privilege or cause of action existing, or which may arise, in connection therewith. The exercise of any rights of a Coinsurer under this paragraph (c) shall be subject to the proviso contained in Article 1 hereof.

(d) With respect to any interests transferred to the Issuer or any interests to which the Issuer or a Coinsurer succeeds under this Article, the Issuer, either on its own behalf or on behalf of any Coinsurer, 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 under international law in its sovereign capacity, as distinct from any rights it may have as the Issuer pursuant to paragraph (c) of this Article.

(e) The Issuer shall promptly inform UNMIK in writing of any Investment Support provided by the Issuer and Coinsurers under coinsurance arrangements under which the Issuer acts both for itself and for such Coinsurers, including the names and addresses of such Coinsurers.

ARTICLE 3

(a) Amounts in the currency of the territory of Kosovo, including cash, accounts, credits, instruments or otherwise, acquired by the Issuer, or by the Issuer and any Coinsurer, upon making a payment, or upon the exercise of its rights as a creditor, in connection with any Investment Support provided by the Issuer, or the Issuer and any Coinsurer, for a project in the territory of Kosovo, shall be accorded treatment in the territory of Kosovo 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 or for the account of 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 Kosovo in accordance with the laws thereof adopted therefor and administered therein by UNMIK.

ARTICLE 4

(a) Any dispute between the Government of the United States of America and UNMIK regarding the interpretation of this Agreement or which, in the opinion of either party hereto, presents a question of international law 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, including the question of whether such dispute presents a question of international law, 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 third state 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,

(iv) 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.

(b) This Agreement shall continue in force until the earlier of (i) conclusion of UNMIK's mandate to provide interim administration in Kosovo, as provided in United Nations Security Council Resolution 1244, and (ii) 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 the first to occur of (iii) twenty years after the termination of this Agreement and (iv) termination of the authority of UNMIK.

IN WITNESS WHEREOF, the undersigned, by their duly authorized representatives, have signed this Agreement in duplicate, in the English language, in Pristina, Kosovo, (by the United Nations Interim Administration Mission in Kosovo) on the ³⁰17th day of May, 2002, and in Washington, District of Columbia, United States of America, (by the Government of the United States of America) on the 17th day of May, 2002.

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

**FOR THE UNITED NATIONS
INTERIM ADMINISTRATION
MISSION IN KOSOVO:**



Peter S. Watson
President,
Overseas Private Investment Corporation



MICHAEL STEINER
SPECIAL REPRESENTATIVE
OF THE SECRETARY-GENERAL