

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

The Government of the United States of America and the  
Government of the Republic of Croatia;

Affirming their common desire to encourage economic  
activities in the Republic of Croatia which promote the  
development of the economic resources and productive  
capacities of the Republic of Croatia; and

Recognizing that this objective can be promoted through  
investment insurance (including reinsurance), loans and  
investment guaranties which are backed in whole or in part  
by the Government of the United States of America and  
provided by the Overseas Private Investment Corporation  
("OPIC"), an agency of the Government of the United States  
of America;

Have agreed as follows:

ARTICLE 1

As used in this Agreement, the term "Coverage" shall refer to any investment insurance, reinsurance or investment guaranty which is provided by an Issuer in connection with a project in the territory of the Republic of Croatia, and the term "Issuer" shall refer to OPIC, any successor agency of the Government of the United States of America, and the agent of either.

ARTICLE 2

(a) (i) If the Issuer makes payment to any party under Coverage, the Government of the Republic of Croatia shall, subject to the provisions of Article 3 of this Agreement, recognize the transfer to the Issuer of any assets, including those in the form of investment as well as currency or credits, in connection with such payment, 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.

(ii) If the Issuer, in the exercise of its rights as a creditor, acquires any such assets or succeeds to any right, title, claim, privilege or cause of action, the Government of the Republic of Croatia shall, subject to the provisions of Article 3 of this Agreement, recognize such acquisition or succession.

(b) The Issuer shall assert no greater rights than those of the party from whom such rights were acquired as described in paragraph (a) of this Article.

(c) The Issuer, as a development agency of the Government of the United States of America, shall not be subject to regulation under the laws of the Republic of Croatia applicable to insurance or financial organizations.

(d) Interest and fees on loans made or guaranteed by the Issuer shall be exempt from tax in the Republic of Croatia. The Issuer shall not be subject to tax in the Republic of Croatia as a result of any transfer, succession or other acquisition described in paragraph (a) of this Article. In all other cases, tax treatment of transactions conducted by the Issuer in the Republic of Croatia shall be determined by applicable law of the Republic of Croatia or specific agreement between the Issuer and appropriate fiscal authorities of the Government of the Republic of Croatia.

### ARTICLE 3

To the extent that the laws of the Republic of Croatia partially or wholly invalidate or prohibit the transfer, succession or other acquisition, as described in Article 2(a) of this Agreement, of any interest in any property within the territory of the Republic of Croatia by the Issuer, the Government of the Republic of Croatia shall permit the Issuer to make appropriate arrangements pursuant

to which such interests are transferred to a person or entity permitted to own such interests under the laws of the Republic of Croatia.

ARTICLE 4

(a) Amounts in the currency of the Republic of Croatia, including credits thereof, acquired by the Issuer in connection with payment to a party under Coverage shall be accorded treatment in the territory of the Republic of Croatia 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 entity and upon such transfer shall be freely available for use by such person or entity in the territory of the Republic of Croatia in accordance with its laws.

(c) The provisions of this Article shall also apply to any amounts and credits in the currency of the Republic of Croatia 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 Croatia.

ARTICLE 5

(a) Any dispute between the Government of the United States of America and the Government of the Republic of

Croatia regarding the interpretation of this Agreement or which, in the opinion of one of the Governments, presents a question of international law arising out of any project or activity for which Coverage has been issued or a loan made 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 international law, shall be submitted, at the initiative of either Government, 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 function as follows:

(i) Each Government shall appoint one arbitrator; these two arbitrators shall, by agreement, designate a president of the arbitral tribunal 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 date 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

Permanent Court of Arbitration 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 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, whereas the expenses of the president and other costs of arbitration 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.

(c) 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 of the Issuer.

ARTICLE 6

(a) This Agreement shall enter into force on the date of signing.

(b) This Agreement shall continue in force until the expiration of twelve months from the date on which either Government shall have given written notice of termination of this Agreement to the other. Notwithstanding termination of this Agreement, the provisions of this Agreement shall continue to apply with respect to Coverage issued or loans made at any time before the date of termination.

(c) Upon entry into force, this Agreement shall supersede the agreement on investment guaranties between the Government of the United States of America and the Government of the Socialist Federal Republic of Yugoslavia effected by exchange of notes signed at Belgrade on January 18, 1973, as between the Governments of the United States of America and the Republic of Croatia. Any matter concerning the Republic of Croatia relating to such agreement or to any investment guaranteed in accordance with such agreement shall be resolved under the terms of the present Agreement.

DONE at Washington on the 15th day of January, 1993, in duplicate, in the English and Croatian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF  
THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF  
THE REPUBLIC OF CROATIA