

DOCUMENT

INDUSTRIAL COOPERATION AND INVESTMENT IN YUGOSLAVIA



**COMMISSION
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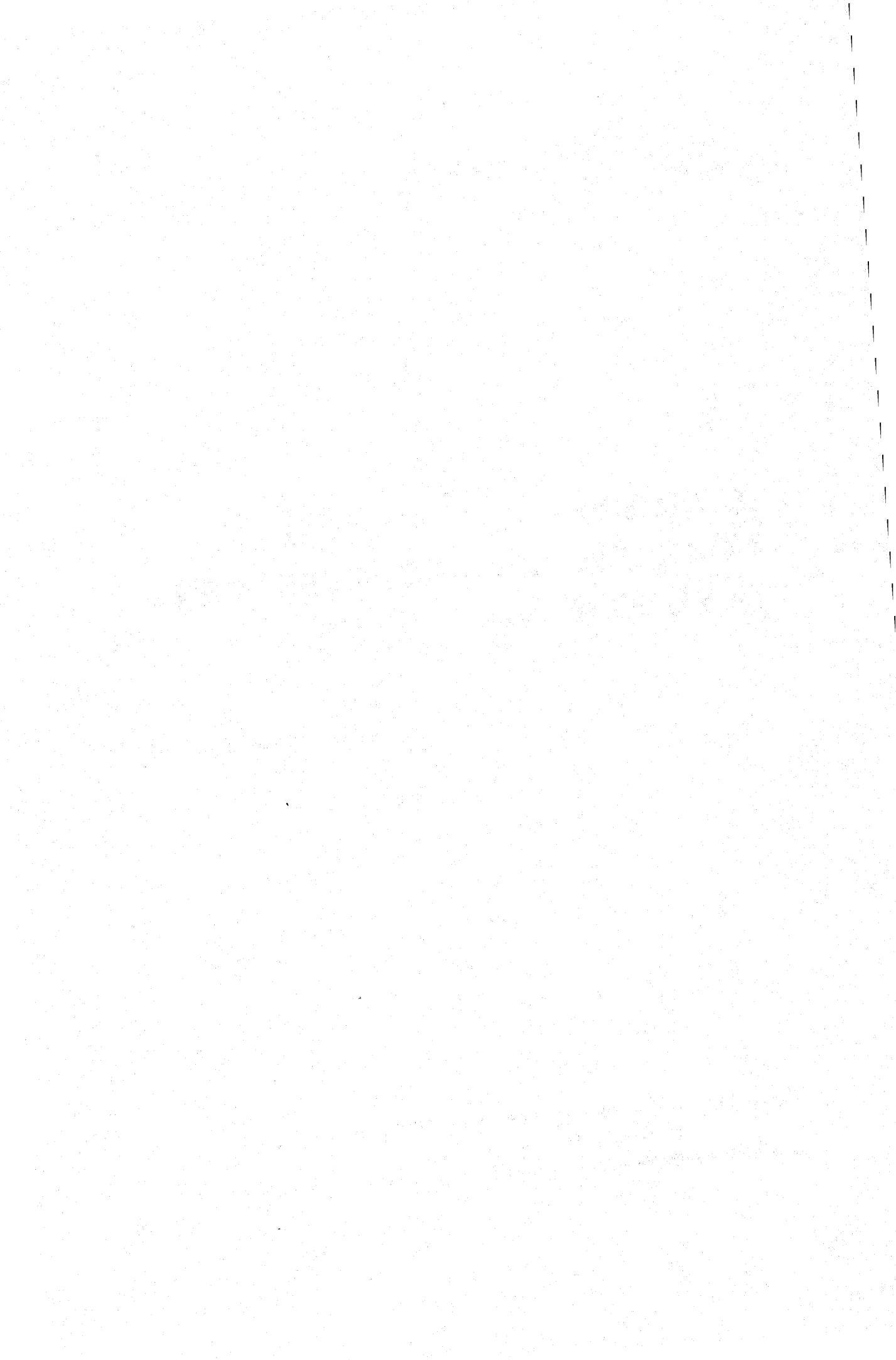
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**JAN G. BAUWENS
NICHOLAS BUENO DE MESQUITA
MARTIN JONES**

**INDUSTRIAL
CO-OPERATION AND INVESTMENT
IN YUGOSLAVIA**

Prepared for: COMMISSION OF EUROPEAN COMMUNITIES

**by: CEGOS MANAGEMENT DEVELOPMENT, London
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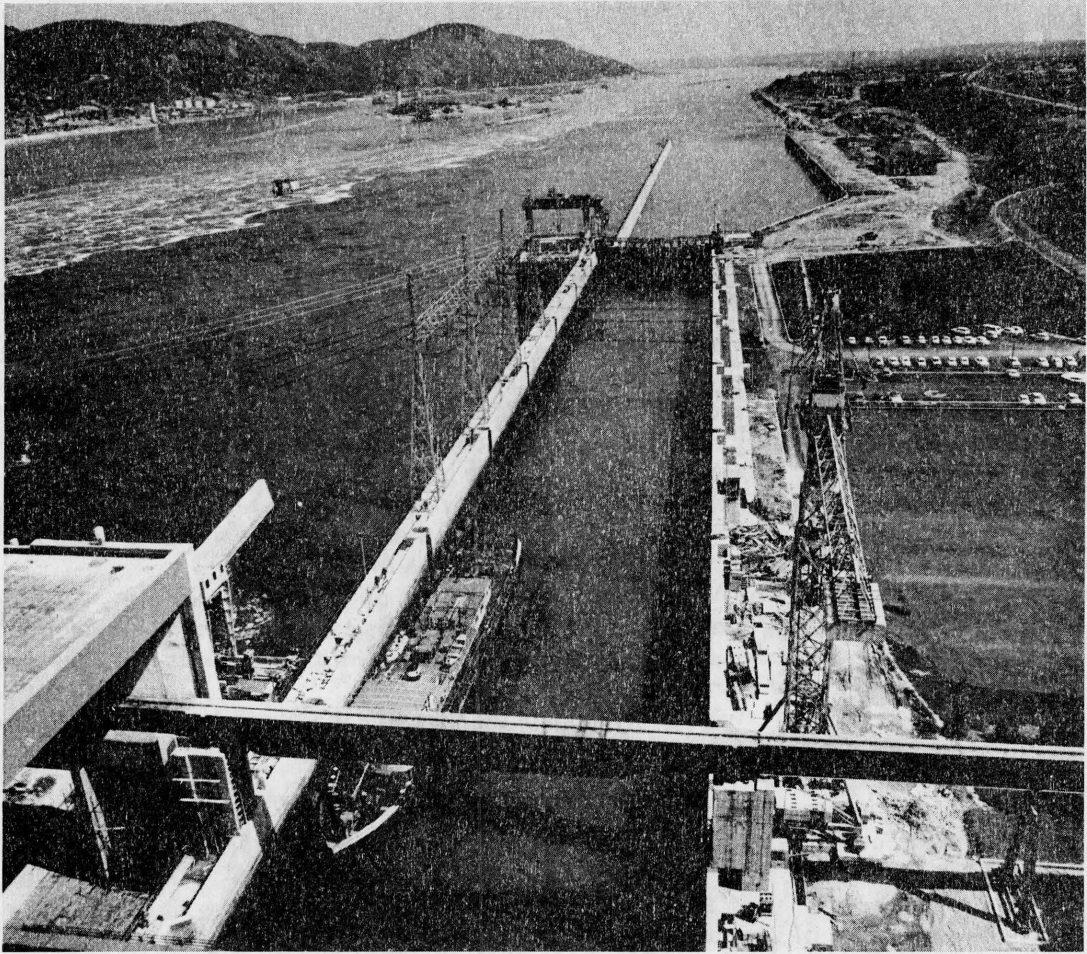
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CHAPTER 1

WHAT YUGOSLAVIA OFFERS WEST EUROPEAN BUSINESS

1.1. The opportunities in Yugoslavia now

Yugoslavia offers a Western European business a mixture of important opportunities. This book is about these opportunities and the ways to grasp them.

There are three main opportunities from which Western business can profit:

- (i) the opportunity offered by the market in a country determined that its economy should grow and develop;
- (ii) the attraction of Yugoslavia as a manufacturing base offering both low costs and a sophisticated, well educated work force in a politically stable environment;
- (iii) opportunities through its links with other markets, especially those in the Third World.

Yugoslavia provides the Western investor with a system of long term co-operation and joint-venture agreements, whereby he can enter into contracts with firms in Yugoslavia. These enable the investor to profit simultaneously from the three types of opportunity. Al-

so they offer the opportunity to foreign companies to license their technology in Yugoslavia.

The arrangements for setting up licensing, long term co-operation and joint venture agreements in Yugoslavia are described in detail in this book.

The opening chapters (2, 3, 4 & 5) provide a basic understanding of the Yugoslav government, self management principles in Yugoslav enterprises, and a description of the banking system, as well as other government institutions which are relevant to anyone intending to do business in Yugoslavia. The reader may, at this stage, choose to embark on the legal aspects of the various forms of co-operation with Yugoslav enterprises which are dealt with at some length in Chapter 6. Alternatively, on a first reading, Chapter 6 may be omitted and the reader can go straight to Chapter 7 which examines the practical aspects of a business partnership within these co-operation agreements. Finally, in Chapters 9, 10, 11 and 12, specific aspects of commercial operation, as practised in Yugoslavia, are presented. These cover taxation, financing, import/export regulations and the context of counter trade with respect to co-operation agreements. Full texts of the relevant laws, together with other background information, are to be found in the appendix to this guide. It should be emphasised that these arrangements are not new and that for a number of years far-sighted European companies, including many of the best known names in European industry, have been profiting from these various forms of co-operation.

Of course the experience of Western firms has not been one of total success in all cases; we hope in this book to explain some of the typical problems causing difficulties in adopting the Yugoslav way of business so that new firms entering into agreements in Yugoslavia may arrive at a fruitful and profitable relationship.

In considering whether you wish to investigate the potential that Yugoslavia offers to your business we suggest that you will want to take into account three main factors:

- What is the experience of other Western firms in Yugoslavia?
- What are the economic prospects for Yugoslavia?
- What is the current environment for Western firms in Yugoslavia?

1.2. The experience of Western business in Yugoslavia

Yugoslavia was the first socialist country to offer Western firms the opportunity to make direct investments. The first joint venture law was passed in 1967.

By the end of the 1984 some 251 foreign firms, of which 147 were from EEC countries, had invested in joint ventures and a very much larger number had concluded co-operation agreements with Yugoslavian firms.

During this period up to 1978 the experience of the great majority of Western firms was very positive. Within Yugoslavia the Western firms had the opportunity to supply a developing economy. Products or parts supplied to the Western firms by their Yugoslav partners were generally of good quality and inexpensive, and commitments made by the Yugoslavian firms were normally met. The Western firms thus benefited from the good level of education and skills in the Yugoslav workforce and from the relatively modest levels of wages and salaries. This was reflected in an adequate level of profits earned on their Yugoslavian operations by Western companies which had concluded agreements.

Between 1980 and 1983 firms which had made agreements with Yugoslavian firms experienced a deterioration in their profitability. There were two main causes: first the Yugoslavian market was less buoyant, second the difficulty of obtaining foreign exchange within Yugoslavia became acute over the joint venture investment legislation becoming more restrictive. This resulted in very slow payments for the Western partners' share of profits and, of course, difficulties for the Yugoslavian partner in obtaining necessary plant, parts and semi-finished products; this in turn resulted in difficulties in meeting production commitments to Western partners.

Yugoslavia is now beginning to emerge from this period of economic difficulty: careful

control of foreign exchange is now ensuring that enterprises, in partnership with Western firms, are assured of the foreign exchange they require under conditions which permit the smooth running of the firms. Furthermore, the energetic action taken by the authorities to stabilise the economy will enable the country to emerge from the recession and expand again in the next few years.

An important aspect of the foreign investor's expectations, therefore, is the prospect for the economy which we review in more detail below. It should be pointed out that due to the decentralised nature of Yugoslav society, the national economy only reflects an average view of the economic fortunes of each of the eight republics and autonomous provinces.

1.3. The prospects for the Yugoslav economy

Any comparison of the present day state of Yugoslavia with the country's condition just under 40 years ago shows the enormous progress that has been made. In the OECD comparisons (*), the following indicators of living standards quantify the magnitude of the effort made by the Yugoslav people:

Table 1.3. Living Standard Indicators

N.B. Closest ranking country in brackets

Private consumption, US \$ 1,000 per capita	(1980)	1,580	(Portugal)
Passenger cars, number per 1,000	(1983)	121	(Greece)
Telephones, number per 1,000	(1983)	123	(Portugal)
Television sets, number per 1,000	(1983)	175	(Ireland)
Doctors, number per 1,000	(1982)	2.2	(Japan, Ireland)
Full time school enrolment % of age group		82	(UK, New Zealand, Iceland)
Average annual growth (1975-1980) %		5.4	(West Germany)

As with many developing countries, Yugoslavia is now experiencing the combined effect of an over-rapid growth in the 60's and 70's followed by the oil price rise led recession of the last 5 years. Its high rate of growth was obtained in part by significant international loads resulting in a heavy burden in indebtment. With an estimated total external debt of US \$ 19 billion (about half of the GNP), Yugoslavia ranks eight in the list of the ten major debtor nations and is on a par with Chile and Turkey in this respect.

Currently gas and crude oil purchases represent about 27% of the value of all Yugoslav imports and, with an economy which has a perpetual balance of payments problems, this places an extremely severe strain on the country's hard currency reserves. Future economic growth in Yugoslavia is totally dependent on the country's ability to generate hard currency reserves. In 1983 Yugoslavia agreed a financial aid package with the IMF designed to provide short term relief. This package consists of official government, or government guaranteed, loans from OECD countries (of a total commitment of US \$ 1,25 billion, some US \$ 850 million has been drawn out), IMF standby credit of US \$ 615 million, a B.I.S. credit of US \$ 500 million which has been repaid in full and approximately US \$ 4 billion of credit from commercial banks.

The Yugoslav side of this agreement included severe anti-inflation measures in order to create a more competitive and market oriented economy — especially with regard to the devaluation of the Dinar, with continual realignment, and a nationally unified planning and control of foreign transactions. This IMF agreement, with the stabilisation of programmes, represents a major reorientation of Yugoslavia's monetary policy. It is expected that these

(*) OECD economic survey for Yugoslavia 1984-1985, Paris, December 1984.

measures, together with improvements in the external economic climate in the OECD countries, and a decline in the real value of oil, will all assist Yugoslavia in moving to a satisfactory long term economic policy. The Economic Stabilisation Commission was set up by the Federal government in 1981, at a national level, to study and propose measures needed to provide for long term economic stability. As part of its terms of reference, this Commission is charged with producing a long term economic stabilisation programme. This programme has resulted in a series of papers which have dealt with a variety of economic and social issues covering inflation. The experience acquired by Yugoslavia over the last five years is that its economic prosperity depends on growth based on a rational use of internal resources. This involves a judicious reliance on imports and external capital. But it certainly does not mean a return to the excessive dependence on these external inputs as occurred in the past.

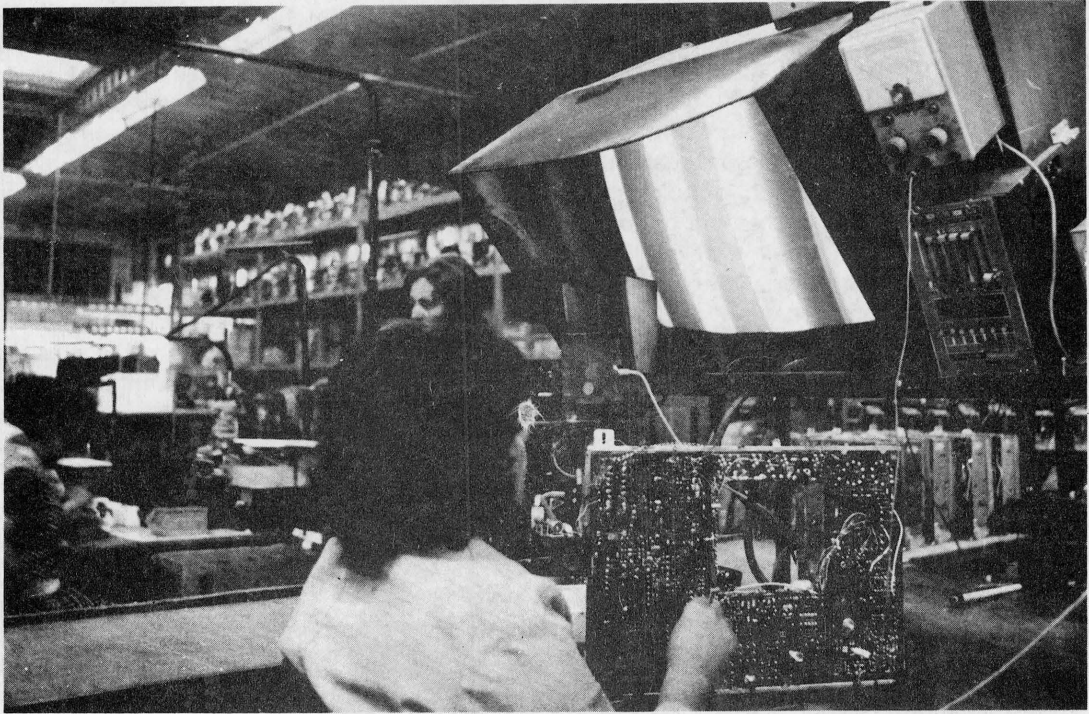
The message is clear: both Western and Yugoslav partners should be concerned primarily with long term co-operation and for the Western partner such commitment is indispensable if he intends to secure a serious foothold in both Yugoslav external and internal trade.

1.4. The business environment for Western firms in Yugoslavia

The Western investor must understand that his main contact in Yugoslavia will be with his partner firm, which is free, within the co-operation and joint venture laws, to conclude the details of an agreement with him on a business basis. His business partner, he will find, operates according to the principles of the self management system under which the enterprise operates and takes its decisions largely outside the control of the state; the system is thus fundamentally different to that found in other Eastern European countries and in many ways not dissimilar to the Western system.

The Western businessman will, however, find that the organisation of the enterprise is somewhat different from that in the West. The theory of the self managing enterprise is that the assets of the firm are considered as social property entrusted to its workers. The workers, as an organised group, have responsibility for these socially owned assets and in the last analysis they are responsible through a workers' assembly for taking the decision which affects these assets. In effect the day-to-day management is in the hands of a professional management team who report to the delegates of the workers assembly. The great majority of Western firms have found that this system (which is described in detail in this book) works well and that the workforce co-operates fully in the achievement of the aims of a joint venture or other agreement. An interesting aspect of the system is that the level of pay achieved by the workers is closely related to the revenue earned by the firm so the interests of the workers are fully engaged in achieving a good result for the firm. At the government level a full welcome is extended by the Federal Secretariat of Energy and Industry to all Western firms seriously interested in doing business in Yugoslavia. This desire to participate in the benefits of the latest technology and know-how is reflected in a series of laws governing the agreements which Western investors can conclude with Yugoslav firms. This was reflected in the recent approval of important new amendments and modifications to the joint venture law which, on the requests of Western firms, extends the freedom of action and takes additional steps to safeguard the profits of Western investors in Yugoslavia; the newly modified law now extends the percentage that a Western investor is allowed to hold in a Yugoslavian enterprise to 100% (from 49%): it also gives the Western partner freedom from a number of the levies that previously he was obliged to pay.

In conclusion, the Federal government understands the importance of foreign investment to Yugoslavia and is moving to improve the environment in which investors from the West may collaborate with Yugoslav enterprises.



CHAPTER 2

THE YUGOSLAV ENTERPRISE

2.1. Self management

The principle of self management is fundamental to the Yugoslav system and is enshrined in the constitution.

The workers directly control the enterprise in which they work through the use, management and disposal of socially owned resources (i.e. the assets of the BOAL); they have rights, obligations and responsibilities specified in the constitution and by law in accord with the nature and purpose of these resources. Both the constitution and the law only lay down workers, rights in general terms. It is within this framework that the workers themselves undertake to:

- control the work and the conduct of business in their OAL,
- decide on working together and pooling their resources to establish other related forms of labour and resources,
- decide on their total earnings, the distribution of further income for personal, collective and general purposes, as well as expanding their material base and, finally, building up reserves.
- decide on the allocation of funds for personal and collective needs,
- regulate labour relations on a mutual basis.

The OAL is linked to its social environment or community by the fact that workers are responsible to the community to protect the social property they control in the OAL. In this context, the assembly of the commune where the OAL is established, or where it carries out its activities, imposes certain legal constraints on the OAL, for example it may:

- take over and dissolve certain 'bodies',

- restrict certain self-management rights of the workers if relations in the OAL are seriously disrupted (e.g. impossible for workers, rights to be exercised) or if any of the socially owned interests are seriously threatened or damaged (e.g. this covers any illegal or unnatural use of the OAL's assets),
- if the OAL fails to carry out its legal (or statutory) responsibilities.

Furthermore the commune or local authority also ensures that the OAL does not infringe any of the self-management principles embodied in the constitution or the legal framework. It must be emphasized that the organisation within an OAL, the terms of reference of its individual bodies and their inter-relation in the OAL are legally defined and must be written into the self-management contract of the OAL.

The system differs considerably from that in other socialist countries of Eastern Europe where central governments or bureaucratic authorities may exercise an important role in each enterprise. This is not the case in Yugoslavia where the self managing enterprise has a large degree of autonomy in its decision making.

2.2. The types of enterprise

2.2.1. Basic Organisation of Associated Labour (BOAL)

There are three levels of organisation in the system.

The Basic Organisation of Associated Labour (BOAL) is the fundamental unit through which workers in a given economic activity or social service directly, and on an equal footing, exercise their socio-economic and other self-management rights and take decisions on other matters relating to their socio-economic status as described earlier. The control of resources or assets is legally vested in the BOAL. The BOAL may associate with other BOALs to form more complex organisations (described below), but the responsibility for the assets or resources remains with the BOAL.

BOALs cannot exist outside work organizations and cannot be set up within the latter unless at least two basic organizations can be formed from the parts of the work organization. The part of the work organization which can constitute a basic organization must represent a working whole; this, in legal terms, being a production cycle or part of the work organization directly linking workers through the same process of work and thereby making them interdependent by both their work and in the pursuit of the results of the labour. Within a BOAL, workers make decisions at Workers' Assemblies, through referenda and other forms of personal expression of their views or through their delegates to the Workers' Council. Workers' Councils are set up in all BOALs with over 30 workers: where this number is smaller the totality of workers discharge the function of the Workers' Council and personally express their views on matters within the terms of reference of the Workers' Council.

According to law, workers take decisions through a referendum on certain fundamental issues such as changes in the self-management agreements which form the basis of their association.

The Workers' Council has wide powers on behalf of the workers. It will normally decide on business policy as well as a number of other specific responsibilities. One of the most important of these is appointing and dismissing the executive and business management bodies.

The Workers' Council has an executive body responsible for the implementation of its decisions and may choose one or more committees to perform specific tasks. The members of the Council are elected for two years.

The management body may consist of either a single individual or a board of members chosen for a maximum 4 year period. Individuals are permitted to serve several terms in succession as managers and there is in fact a high degree of stability in the management of most firms.

The management body of a BOAL has the responsibility for:

- directing the day to day business operations,
- proposing business policy and the means of implementing it,
- executing decisions which are the personal views expressed by workers, the decisions and conclusions reached by the Workers' Council as well as its executive body,
- submitting its views and proposals to the Workers' Council with regard to business plans and the means of implementing these plans,
- directing individual workers or groups of workers to carry out specific tasks,
- ensuring the legality of the BOAL's operations.

The way in which this system operates varies very much from one organisation to another: in some organisations the Workers Council will be relatively docile and accept easily the plans put forward by the managers but this will not always be the case.

The foreign businessman will normally find himself face to face with a manager who is generally in accord with his Workers' Council. The manager will however have to submit agreements with another business to the scrutiny of the Worker's Council.

2.2.2. The Work Organisation (WO)

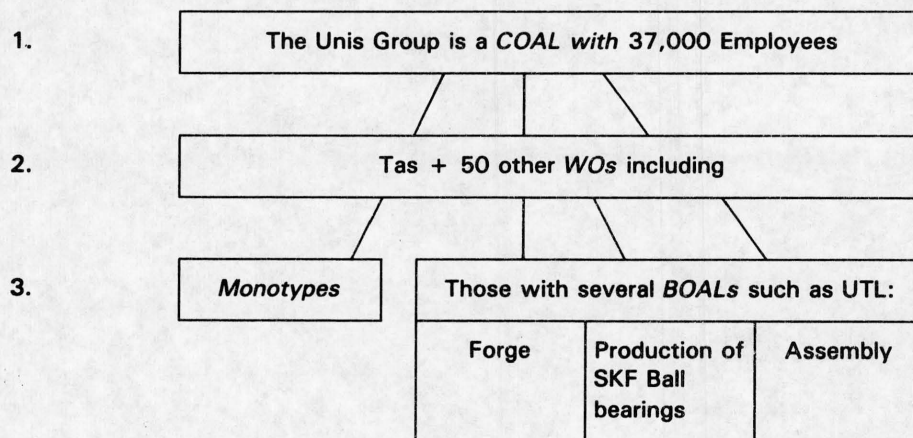
The Work Organisation is the second level of organisation in the system. As a rule it consists of a number of BOALs, but a Work Organization can also exist without having any BOALs in its composition. This is usually the case in large factories where it is difficult to identify separate and distinct outputs. In that case there will not be a number of BOALs, but a single OAL (Organization of Associated Labour) which will represent the whole factory. Vehicle assembly plants are often organised in this way.

The WO has its own Workers' Council consisting of delegates elected directly by the workers from the different BOALs. However the BOAL retains its independence in its decision making on key matters such as investment, remuneration, pricing and control over the resources of the BOAL. The BOAL cannot be overruled by the WO. In some cases (when there is no BOAL) a WO may be established directly and elect directly its Workers' Council. In other cases OALs are widely diversified enterprises and may sometimes appear to lack industrial logic.

2.2.3. The Composite Organisation of Associated Labour (COAL)

The COAL (Composite Organisation of Associated Labour) is established from an association of a number of WO's that are linked by similar interests. These interests can be quite wide ranging, extending from a common source of raw materials and energy sources or as producers of similar intermediates or semi-finished articles. Again the WO's could

Figure 2.2.3. Example of the Structure of a Group (UNIS)



combine their finishing operations, marketing or service activities. COALs are also established with a view to either sharing among the WO's more specialised skills or technologically advanced techniques. A COAL can even be set up by WO's producing different products or dissimilar services but who wish to ensure a common revenue or other forms of business collaboration.

As an example of a complex organisation we show in figure 2.2.3. the UNIS enterprise, a COAL employing some 37,000 workers organised into 75 WO's (each of which is organised into several BOALs) and one monotype (i.e. an OAL without any BOALs).

The European businessman may find that his initial negotiations will be at any one of these three levels of organisation: for very large investments he will probably be dealing with a COAL; more usually he will be dealing with the management of a WO. If he decides on a venture, it is quite likely that a BOAL will be established to be responsible for the new activity.

2.3. The case of joint venture with a Western partner

In the case of joint ventures with a Western partner an additional feature is the establishment of the Business Board on which the Western partner is represented. This will enable the Western partner to make his views known directly to the various levels of the enterprise. This aspect of joint ventures is discussed in full in Chapter 8.



CHAPTER 3

GOVERNMENT, INDUSTRY AND BANKING

3.1. The delegate system

In the Western democratic system the people exercise their power by means of elected representatives of various kinds on whom electors confer, for a limited time period, very full powers to defend their interests. The constituency on which this representative system is based is normally a geographical one.

Yugoslavia, on the other hand, has the delegate system.

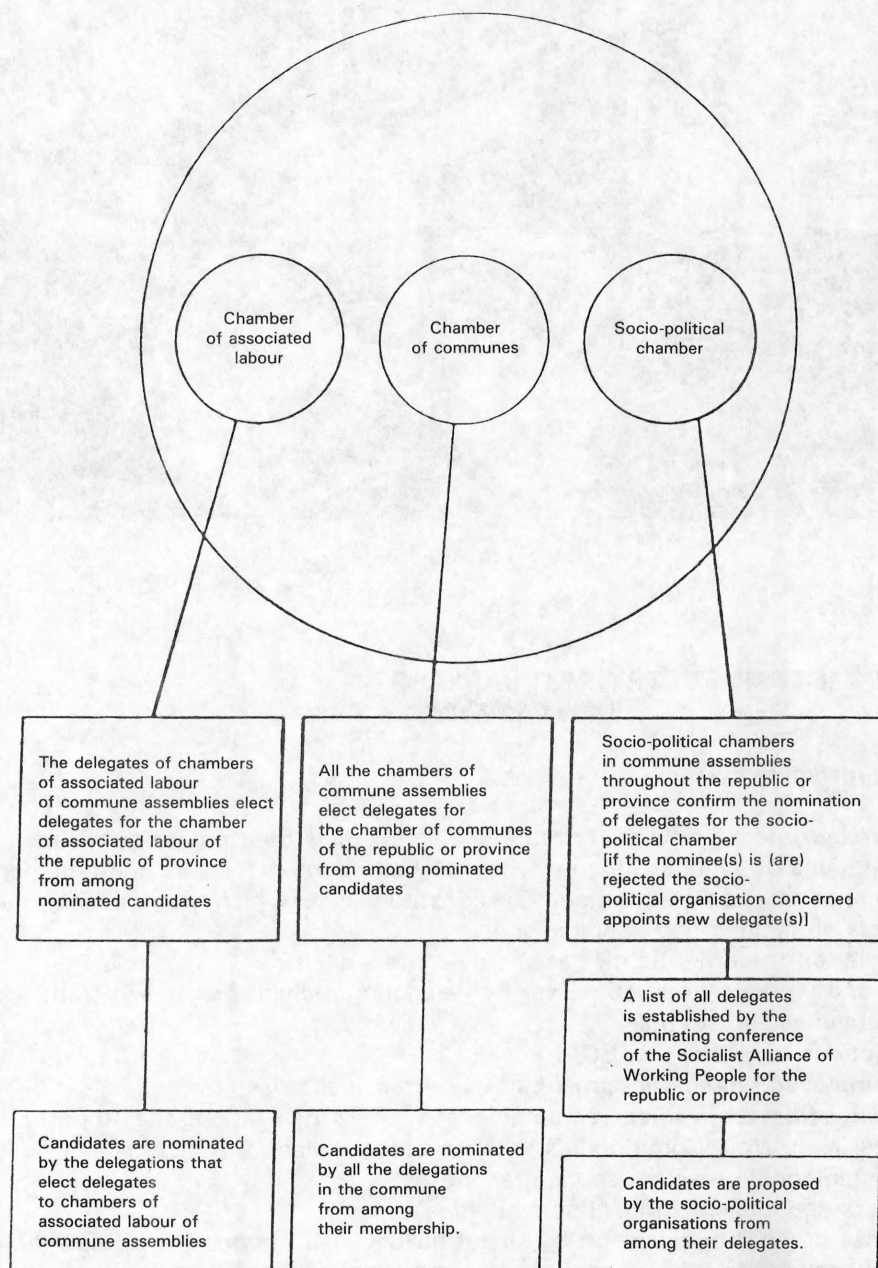
Citizens and workers exercise power by delegating individuals chosen from within their organisations as for example:

- delegations of workers in BOALs
- self-employed workers in agriculture and craft industries
- delegates from the workers' communities in State organisations and other socio-political bodies (N.B. Work Communities in these cases replace the BOAL)
- army personnel on active service for the SFRY
- workers and citizens in local communities

All of these organisations select, by secret ballot, a certain number of individuals. These individuals constitute their delegations; the members of these delegations are not exempt from their normal duties.

Subsequently each delegation may elect from among its membership one or more individuals who represent them in each of the different centres of power. These delegates act according to directives given to them which should reflect the view of the members of the organisation represented. Delegates must report regularly on their activities and the communities which they represent are empowered to recall their decisions. Delegates are

Figure 3.1. Composition of the assembly of a republic or autonomous province



elected for four years and can be chosen for two consecutive terms by the same organisation.

Through this type of system the decisions taken by the centres of power remain under the control of the working people and citizens who, have a direct influence on the decisions taken. In practice this influence is exercised by means of informal contacts at all levels in the decision making process. Consequently, unanimity is most frequently arrived at by this process of consensus.

3.2. The three tiers of power

3.2.1. The Commune

The commune is the basic socio-political community. This is a community grouping 40-50,000 inhabitants and more in the major towns. There are around 500 of these communes for the total population of 22.8 million.

The communal assembly has 3 chambers:

- (i) a chamber composed of delegates
- (ii) a chamber comprising representatives of local villages, localities, town districts etc.
- (iii) a chamber of socio-political organisations consisting of representatives grouped into the Socialist Alliance of Working People SAWP from
 - the party (League of Communists of Yugoslavia)
 - the trade unions
 - veterans organisations
 - youth organisations
 - women's organisations etc.

The socio-political chamber is the guardian of the ideological orientation of all elements of the assembly.

3.2.2. The Republics and Autonomous Provinces

The Socialist Federal Republic of Yugoslavia (SFRY) is made up of six republics (Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia) as well as two autonomous provinces (Kosovo and Vojvodina) both of which are incorporated into Serbia. Assemblies at the republic level mirror the assemblies at communal level: communal assemblies elect delegates to represent them in their appropriate assembly at Republic level as shown in figure 3.1.

The Republican Assembly has as its executive body the executive council, whilst the same organisation applies to the autonomous provinces.

Each republic with its different languages, cultural and historical background possesses a high degree of autonomy. Consequently, there are wide differences in the stages of economic development obtained by the various republics.

3.2.3. The Federation

The highest instrument of power in the Federation is the SFRY Assembly which is constituted with full rights and responsibilities. The Assembly has two chambers (see figure 3.2).

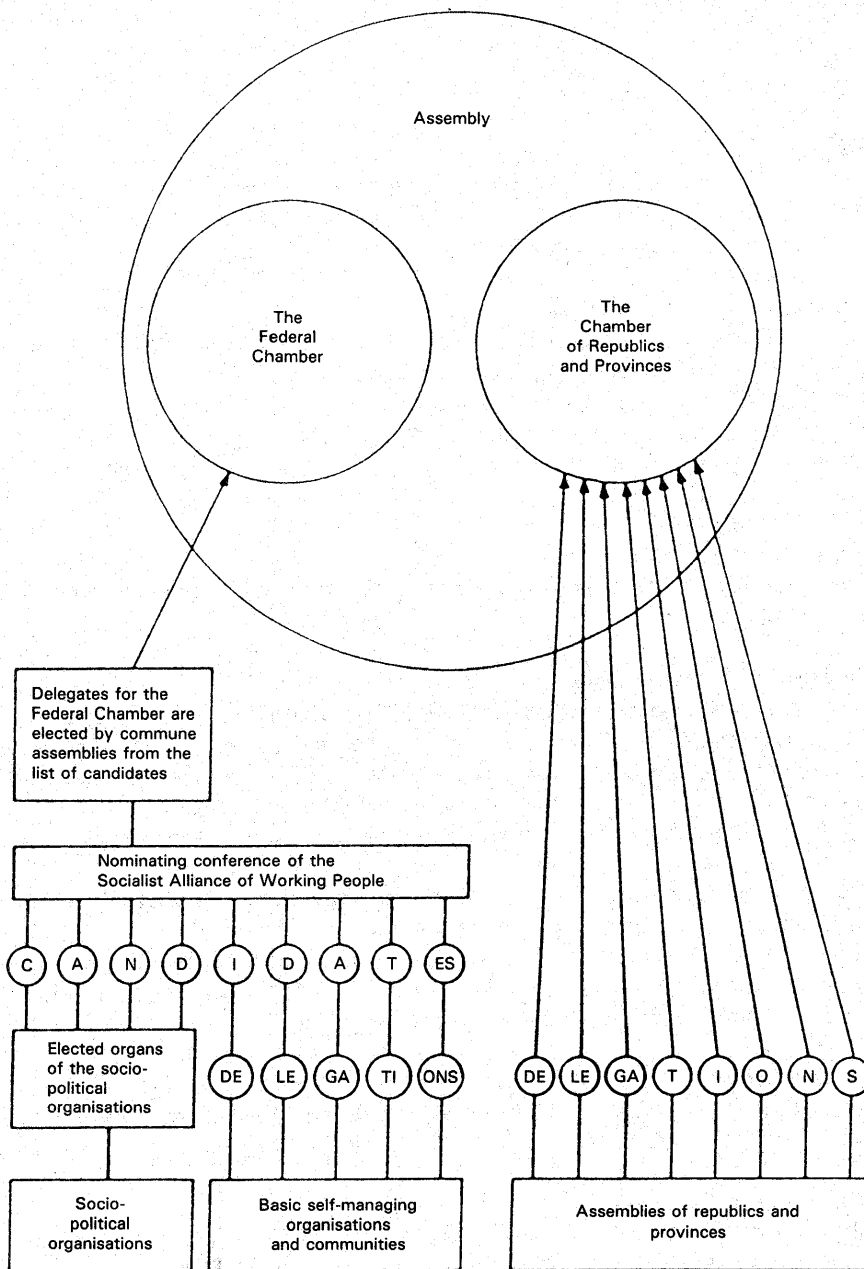
3.2.3.1. The Federal Chamber

It has 220 delegates, 30 from each republic and 20 from each autonomous province. Candidatures of the delegates for the Assembly are drawn from the delegates representing the following organisations:

- BOAL's
- Self-managing Communities,
- Socio-political organisations from within the Socialist Alliance of Working People.

A list of candidates for the Federal Chamber is established by the Candidature Conference of the Socialist Alliance of Working People. The election of candidates is carried out by the

Figure 3.2. Composition of the Assembly of the Socialist Federal Republic of Yugoslavia



communal assemblies; all three chambers sit together for this purpose and election is made by secret ballot.

The responsibilities of the Federal chamber include the following:

- establish the principal lines for both internal and foreign policies,
- determine all questions concerning border revisions,
- establish both the federal budget and the annual financial statement for the Federation,
- assume all other duties which fall within the competence of the SRFY Assembly but which are not within the terms of reference of the Chamber of Republics or which it does not carry out in conjunction with the latter.

3.2.3.2. The Chamber of Republics and Provinces

This chamber is made up of delegates from the assemblies of each republic (12 for each republic) and autonomous provinces (8 per province); there are a total of 88 delegates. These delegates are elected by secret ballots in all the various assemblies for each of the republics sitting in joint sessions of their assembly chambers. Those delegates elected to the Federal Chamber retain their seats in their republic or provincial assemblies.

The principal function of the Chamber of Republics and Provinces is to co-ordinate and harmonise those decisions of the individual Republic and Provincial Assemblies in all areas where Federal legislation is required in accordance with the wishes of these individual assemblies.

In addition, and also in conjunction with the intentions of these individual assemblies, the Federal Chamber of Republics and Provinces is responsible for:

- issuing the Yugoslav social plan,
- formulating policy and passing federal laws relating to the monetary system, foreign exchange regulations, foreign trade credits, customs duties and regulations, price controls and turnover tax,
- determining the sources of funds for the federal funds and other federal financial obligations,
- establishing the total volume of federal budget expenditures.

The two chambers together elect the president and the vice president(s) of the Assembly and elect the president and members of the Federal Executive Council and other federal officers, the president of the Constitutional Court and the Federal Court.

3.3. The Organisation of the Federation

This consist of seven branches, as shown in figure 3.3., which will be described below.

3.3.1. The Presidency

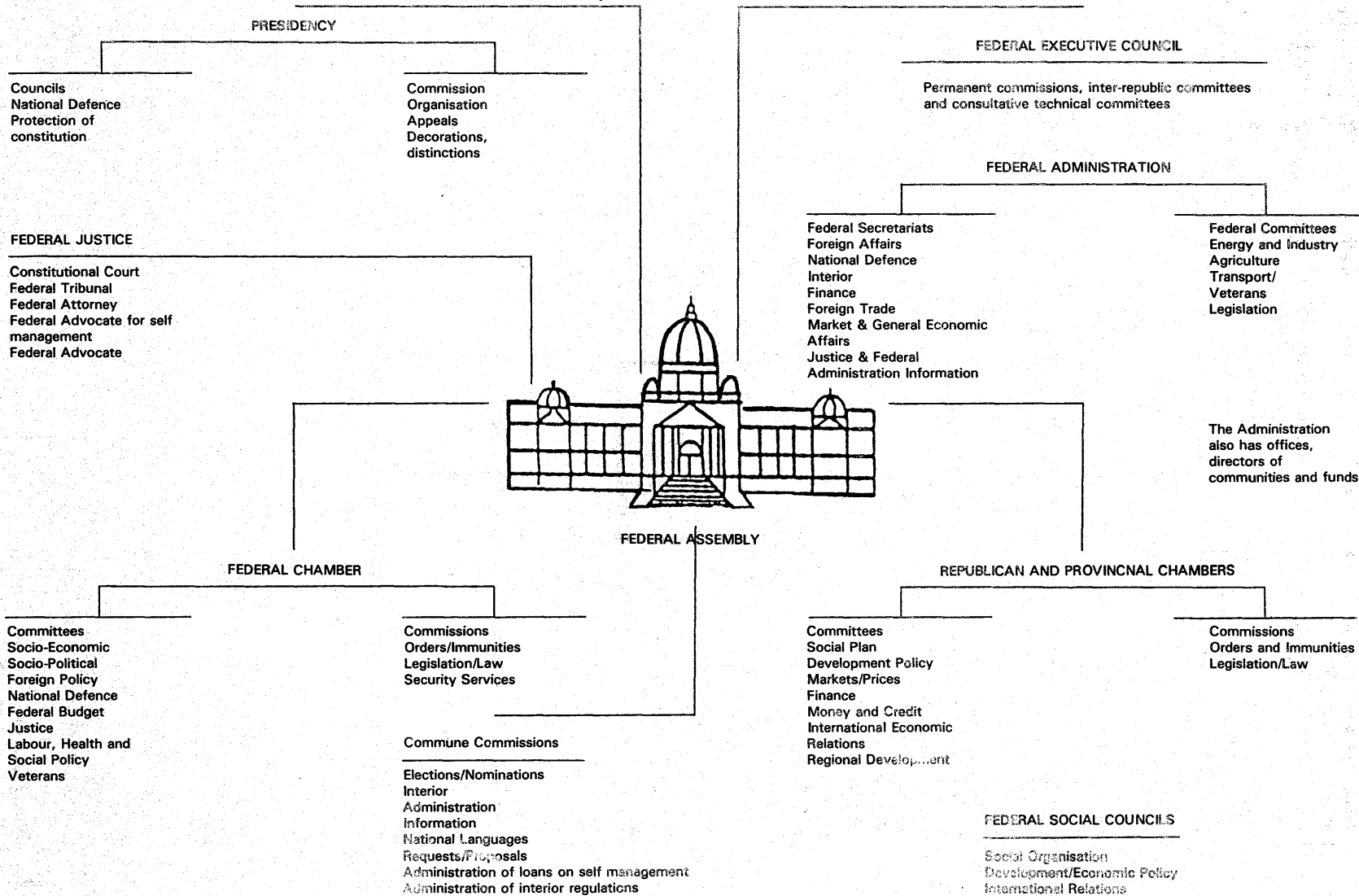
The Presidency, since the death of Tito, is a 'Collective Head of State' with 9 members: one for each republic and autonomous province, elected every five years by their assemblies.

The President of the League of Communists of Yugoslavia is an ex-officio member of the State Presidency. The Presidency elects from among its members presidents and vice-presidents for one year. In effect a rota principle is used. Serbia held the Presidency in 1982, Croatia in 1983 and Montenegro in 1984.

The Presidency represents Yugoslavia abroad. Within its rights and responsibilities it sees to the harmonisation of interests of the republics and provinces: leadership of the armed forces is vested in the Presidency. The Presidency can propose to the Assembly particular internal and foreign policies and the adoption of new laws; the Assembly can ask the Presidency to examine questions of importance.

The Presidency also proposes candidates for the office of President of the Federal Executive Council and is able to move in the Assembly the questions of confidence in the Federal Executive Council.

Figure 3.3. Organisation of the Federation



The organisation of the Presidency since the death of Tito is comparable to that found at the Federal level in Switzerland, with a rotation of the title holders between regions supported by the Assembly with its two chambers designed to balance the interests of the different regions.

3.3.2. The Federal Executive Council

As its name indicates this is the executive of the Federal Assembly.

The Federal Executive Council, established with all the rights and authority of the federation, is responsible to the SFRY Assembly in two principal areas, which are as follows:

- implementing the policy of the SFRY Assembly through federal laws and its other regulations and general directives,
- co-ordinating and directing the work of the federal administrative bodies.

The Federal Executive Council is headed by a President and consists of a council whose members include both elected councillors representing republics and provinces in an equitable fashion as well as a certain number of officials in charge of the various federal administrative bodies.

The Federal Administration is composed of various secretariats and committees established to undertake and discharge both administrative and professional duties on behalf of the Fion. The fields in which these various secretariats and committees operate include, among others, the following:

- Finance
- Foreign Affairs
- Defence
- Internal Affairs
- Information
- Justice
- Markets and General Economic Affairs (SSTOPP)
- Agriculture
- Transport and Communications
- Energy and Industry
- Labour, Health and Social Welfare
- Legislation.

3.4. Governmental and other organisations with whom the foreign businessman may have contact

3.4.1. The Federal Committee for Energy and Industry

This committee is the key decision-making body in respect of applications to establish long term technical co-operation and joint venture agreements with Yugoslav enterprises. The procedures involved in a relation with this committee are described in detail in Chapters 6 and 7 for the various types of co-operation and joint venture agreements.

This committee has a number of responsibilities, which include the following:

- it approves new agreements,
- it has a brief to watch over existing agreements and to monitor their annual performance,
- it liaises with other federal secretariats whose interests may be affected by agreements with foreign companies (for instance the Secretariat for National Defence),
- it maintains an official register of all agreements approved and still in force.

3.4.2. The Chambers of Economy

All OALs engaged in any economic activity are represented in the Yugoslav Chamber of Economy through membership of the appropriate General Association. OALs are obliged to become members of such General Associations which are established for all the major

sectors of industrial activity. A description of these General Associations is to be found in Chapter 3.4.5.

These Chambers play an important role at all levels of the Yugoslav economy and the foreign partner is likely to encounter them at all their three levels of activity. These are at the federal level, the Yugoslav Chamber of Economy (YCE) which is the first tier. The second tier is the republic and regional levels. An Appendix gives the addresses of organisations in these 2 tiers. Finally, there is a third tier of communal or district chambers.

Both the Chambers of Economy (at their various levels) and the General Associations base their relations with the OALs on the principle of mutual agreement rather than one of hierarchy.

The YCE has a very wide range of tasks to fulfill which embrace various aspects of improving business skills and performance by both training, co-ordination of related economic activities, analysing economic trends and performance, and finally, but not least, promoting improved trading and business opportunities.

In the educative and training role the tasks of the Chambers of Economy include the following:

- promoting better labour utilisation and improvements in labour productivity
- organising R & D and technology transfer
- promoting time and motion studies and techniques
- environmental protection matters
- promoting increased specialisation through co-operative ventures
- improving production efficiencies
- personnel training aspects
- increasing the use of information technology.

In addition there are five main lines of action adopted by the YCE designed to improve Yugoslav business performance which are as follows:

- examining and developing self-management principles.
- seeking means for better economic performance from co-ordinating the various interests concerned with energy, transport, stockholding and foreign trade initiatives,
- promoting and developing economic relations with foreign markets by co-ordinating the activities of OALs in these markets and setting up overseas offices to assist in this exploitation,
- participating actively in the preparation of annual and medium term development plans, and organising the means for effectively implementing such plans.
- reviewing regulations and other legal matters relating to the business community, either by proposing amendments to existing regulations or taking the initiative in proposing new laws or regulations.

At the republic, province and regional levels the relevant Chambers of Economy play a similar role except that it is concentrated on the territory to which they are assigned.

This is governed by an assembly which is composed of delegates elected from the General Associations. This assembly appoints an executive board responsible for running the Chamber of Economy. Also, co-ordinating committees are formed to handle specific topics which cover the interests of several of the General Associations.

It is one of these committees which has the task of co-ordinating the OALs economic co-operation with foreign countries. This is known as the Co-ordinating Committee for Foreign Economic Relations and its primary objective is to promote the export of Yugoslav goods and services. To this end it has established sections responsible for each of the major trade related geographic regions of the world. Each section includes representatives from those OALs who have already, or intend to have, established trading links with the region concerned.

The trade development offices are established in conjunction with the appropriate regional section to act as trade promotion centres. Some 60 of these offices have now been opened worldwide, and in Appendix 6.3.3. the addresses of the relevant offices in the Community countries are given. Foreign companies may therefore use these offices to make contact

with the appropriate Yugoslav enterprises; these trade promotion offices are specifically entrusted to transact business on behalf of the Yugoslav enterprises; they do not do any business on their own account.

3.4.3. *SIZ for Foreign Trade*

The self managing interest communities for foreign trade were established in 1977 at republic and regional level in order to provide enterprises with a greater degree of control over foreign trade policy. Their functions include:

- export promotion
- export limitation of strategic materials
- co-ordination of foreign trade activities in line with available production capacity.

The foreign trade SIZ's were created to bring a degree of order and balance to foreign exchange earnings. The situation had existed where, in order to gain the much sought after foreign currency, many enterprises (even raw material producers) were selling their output for export.

Anomalous situations were created where downstream industries purchasing finished articles became unable to obtain locally produced materials since these had already been sold for hard currency. Considerable criticism was voiced by enterprises, especially in the metallurgical sector, converting primary materials and playing a vital role in the economy, who appeared to stand little or no chance of earning hard currency.

The SIZ's were set up to reduce this obvious imbalance which has caused, at times, very serious production bottlenecks for Yugoslav industry. Starting from a relatively simple role, the SIZ's have grown into quite effective and important economic instruments with powers to extend or discourage credits to enterprises who do not collaborate by 'pooling' hard currency earnings.

Paradoxically, while on the republic level, the SIZ's have been remarkably successful in ensuring a much fairer distribution of hard currency earnings and making much more effective use of productive capacity, problems have arisen in relation to competition between republics.

Therefore, at the federal level an Interest Community for Foreign Economic Relations has been established with 10 delegates from each Republic. The purpose of this body is to attempt to define overall guidelines defining how much foreign exchange should be distributed or retained for all enterprises in all republics. As yet it has not issued any guidelines, so that it is obviously fulfilling more of a consensus rather than a decision making role.

3.4.4. *Social Accounting Service (SDK)*

The major function provided by the SDK is to act as a channel for all dinar currency payments: it is in effect a national giro system. Banks, government agencies, OALs and all other enterprises do not make any direct payments one to another, each instructs the SDK to make the necessary payment against the amount it transfers to the SDK.

Since the SDK is the mechanism for moving all money within Yugoslavia, hard currency transactions excepted (even for private individuals), it is able to keep a continuous record of the funds held by all the account holders. This watchdog or monitoring function of the SDK is increasing in importance. While it may take action if an enterprise makes illegal payments, it can also influence through its auditing operations. The SDK will quickly be aware, from the daily balances it prepares of all its transactions, whether or not an OAL is making payments beyond the limit of its liquidity.

Furthermore, the SDK has the right to inspect the accounts of any enterprise even up to the level of a National Bank. Using the data it generates, the SDK prepares statistics on the economic performance of the country, proposes new policies and regulations to improve credit policy and monetary policy. Needless to say, the SDK is fully decentralised, operating at regional, republic and federal level.

Of particular interest to foreign partners wishing to convert the accounts of their Yugoslav operations into the equivalent form of their own countries is an accountancy system service, provided by the SDK. This is the Economic Financial Revision Department, located in Belgrade, which was set up at the request of various foreign investors; it operates independently of the SDK and will analyse budgets and balance sheets of Yugoslav partners.

The SDK will also provide assistance in evaluating equipment and technology contributions by the foreign partner to a co-operation or joint venture agreement, by acting in a consultative capacity. Enterprises are also obliged to consult it when planning to invest in a major project, as to the viability of the project. The SDK will issue its views having consulted the Chambers of Economy on all major projects. It will also inform the bank from whom credit has been requested and, on an informal basis, advise the bank as to its views.

Enterprises in financial difficulties and requiring new capital are obliged to consult the SDK which again will issue its advice as to the feasibility of the operation and inform the appropriate bank. The SDK may at the same time propose measures to turn the enterprise round: these measures will generally include reductions to the income of the workers. In this way the SDK is frequently instrumental in ensuring that enterprises do not become insolvent.

Finally, the SDK issues a number of economic publications based upon information gathered through its control of the WO's.

3.4.5. Trade and Industry Associations

There are 18 General Associations for trade and industry and OALs are required to be members of the association which represents the interests of their specific activity. A list of these associations with the addresses of their head offices is to be found in section 6.6.6. of the Appendix.

In addition, for other service and production activities there are 5 other associations having the same status as the General Associations; these are as follows:

- The Association of Banks
- The Association of Insurance Communities
- The Union of Co-operatives of Yugoslavia (comprising both co-operative and contract farmers' organisations),
- The Community of Yugoslav Railways
- The Community of the Yugoslav Power Generation and Distribution Industry
- The Community of Yugoslav PTT Organisations.

The General Associations, which operate through branches located over the whole country, are concerned with the topics relating to their technology transfer and joint ventures. A foreign company could seek advice from the relevant association if it is wishing to locate a suitable enterprise in a given sector.

3.5. The Yugoslav banking system

The banking system is governed by the twin principles of self management and the socialist market economy. Externally, Yugoslavia appears to operate on free market principles, quite similar to any Western banking system with a central bank overseeing commercial banks carrying out the normal range of financial services and retail banking. However, the mode of operation has several distinct differences which are important for anyone wishing to do business in Yugoslavia to grasp.

Firstly, Yugoslavia is a single monetary, credit and currency area established with the following basic principles:

- free movement and pooling of labour and resources over the whole country,
- a single currency, the Yugoslav dinar,

- a unified monetary and foreign exchange system,
- uniform principles for the banking and credit system with joint issue, monetary and foreign exchange policy and joint principles of credit policy.

As described in Chapter 3.2.3. the Assembly of the SFRY is the source of all legal regulations governing the establishment of financial policies and their operation.

The present banking system in Yugoslavia comprises the following types of banks: the system of national banks as institutions of the unified monetary system, banking and other financial organisations.

In addition to these, a law establishing the Yugoslav Bank for International Economic Co-operation and governing joint financial organisations was enacted in 1978; the basic activity of this bank is to encourage and expand long-term production and financial co-operation between domestic social legal entities and foreign persons as well as their joint operations in third country markets. The basic activity of the bank is extending supplier credits for exports of capital intensive equipment and ships, and the execution of capital projects abroad.

3.5.1. The system of National Banks

The Yugoslav system of National Banks comprises 9 members: the National Bank of Yugoslavia (NBY) with headquarters in Belgrade, 6 republic banks and 2 autonomous regional banks. The system was established by the 1972 banking regulations and confirmed in the 1974 National Constitution. This is designed to represent the unified monetary system in the Federation and abroad and plays the role of the central bank or bank of issue. Legally the NBY is autonomous, but the monetary system concept is based on the principle that while it discharges some business on its own, it carries out other transactions jointly with the other 8 banks in the system.

Interest rates are not used to determine monetary policy, instead credit directives are issued to commercial banks with changes in their reserves requirements.

The NBY issues annual resolutions defining the country's monetary, credit and foreign exchange policies. In particular these resolutions define the:

- aims and targets of the economic policy which are influenced by money supply and available credits,
- global money supply and credit policy targets,
- bank lending policies,
- primary issue policy,
- banks' obligations in reaching the money supply and credit limits,
- interest rate policy,
- other issues necessary to maintain the required financial discipline and liquidity.

The board is responsible for the implementation of these decisions which are binding on the NBY and all the other national banks.

Besides the various internal decisions relative to central bank operations the boards of governors are also responsible for establishing the minimum general conditions for credit worthiness to be met by the Yugoslav banking system and for fixing the lending and borrowing rates for the NBY. The organisation of this system of national banks is shown schematically in figure 3.5.1.

3.5.2. Commercial banking organisations

The Yugoslav banking system is governed by the same socio-economic principles as those determining the other self management enterprises in the society. Accordingly banks in Yugoslavia are termed banks of associated labour and, as financial institutions, they are entrusted with allocating resources on an economically justified basis; thus one can consider that they play a rather creative role. Since the banks are part of the self-management system they operate with socially owned resources and it is in their interest that social production and income should grow. Consequently they become closely involved in the

general implementation of plans and economic policy while at the same time observing the principles of sound banking practice (i.e. profitability, judicious lending practices and liquidity).

While following the monetary guidelines laid down by the NBY, commercial banking organisations are free to make their own decisions on specific credit and monetary transactions.

The present organisation of the commercial banking system was established by the law on the Principles of credit and banking (adopted in 1977); this envisaged 5 types of banking organisations. These are as follows:

- Internal Banks
- Basic Banks
- Associated Banks
- Specialised financial organisations
- Saving and Credit Organisations.

Figure 3.5.1. Organisation of the System of National Banks

<p>I. At Federation level:</p>	<p>the National Bank of Yugoslavia (NBY) (one) This an organization of the Federation and the Federation guarantees its obligations It is responsible to the SFRY Assembly for its work, which supervises NBY operations, and to the Federal Executive Council, within its terms of reference</p>	<p>NBY Operations:</p> <ul style="list-style-type: none"> – regulates the amount of money in circulation – maintains the liquidity of banks and other financial organizations, – maintains liquidity in respect of foreign payments – issues banknotes and coins – operations for the needs of the Yugoslav People's Army and national defence – other transactions (gold buying and selling; acts on behalf of the Federation concerning loans to the Federation and their repayment) 	<p>NBY Bodies:</p> <ul style="list-style-type: none"> – The Board of Governors and – the Governor of the NBY <p>The Board of Governors has nine members and ensures the uniform implementation of regulations and measures concerning the joint issue, monetary and foreign exchange policy and the joint principles of credit policy by the NBY and the national banks of the republics and the national banks of the provinces The NBY Governor is appointed by the SFRY Assembly</p>
<p>II. At the level of the republics and autonomous provinces:</p>	<p>The National Banks of the Republics (six) The National Banks of the Autonomous Provinces (two) Together with the NBY they represent institutions of the unified monetary system</p>	<p>Work of the national banks of the republics and national banks of the autonomous provinces together with the NBY:</p> <ol style="list-style-type: none"> 1. Charting and implementing joint issue policy, as established by the SFRY Assembly 2. Responsible for currency stability <ul style="list-style-type: none"> – for general payment liquidity domestically and externally – for implementing joint monetary and foreign exchange policy and joint principles of credit policy 	<p>Bodies:</p> <p>The national banks of the republics and the national banks of the autonomous provinces are managed by a Board and Governor. The Governor of a national bank of a republic or province is also a member of the NBY Board of Governors</p>

However the banks themselves are not established by law, but the law requires that commercial banks operate to serve the economic needs of the country.

These banks are established as legal entities by socially owned enterprises, no private individuals are permitted to establish or participate in the banking system, likewise no government agencies may establish banks. Figure 3.5.2. shows the relationship of the various commercial banks.

The above mentioned banks through their founders and members as well as in their business policy pursue the interests of the OALs and the common interests of the society at large.

3.5.2.1. Internal Banks

As the name implies, these are not strictly speaking commercial banks. They represent the simplest form of banking in Yugoslavia. Internal banks are formed to serve the financial needs of either a group of BOALs with similar production or trading activities or a larger OAL; when the bank becomes in effect the equivalent of the treasury or financial department of the enterprise. Thus an internal bank does not engage in retail banking as such. The internal bank is a self-managing organisation which undertakes credit and monetary operations on behalf of the BOAL or OAL who established the bank. Since the internal banks' operations are limited to these activities they are exempt from the NBY regulations concerning credit policy and monetary restrictions. Several internal banks are able, as a joint undertaking, to establish a basic bank.

3.5.2.2. Basic Banks

A basic bank is formed by a group of BOALs, OALs or other legally constituted self-managing organisations (in the fields of health care, education, public utilities etc.) to serve the needs of the organisations and those of their workers. A basic bank is normally formed by

Figure 3.5.2. Organisation and Work of Banking Organisations

INTERNAL BANKS (cca. 190 such banks have been set up)	BASIC BANKS (there are 168)	ASSOCIATED BANKS (there are nine)
<p>Activity:</p> <ul style="list-style-type: none"> — prepares proposals for financing the development programmes and plans of its members — associates labour and pooling resources for investment in fixed and working assets in pursuit of the members' common interests — performs certain payment transactions for its members — sees to due execution of orders for payment in mutual credit transactions — effects payment of obligations on behalf of and for the account of its members — keeps records on mutual financial and credit obligations between its members — performs other duties as required under the self-management agreement. 	<p>Activity:</p> <ul style="list-style-type: none"> — associates labour and pooling resources for various purposes on behalf of its members — pools monetary resources for citizens' purposes — obtains credits in the country and abroad — extends all types of credits in the country and abroad — issues guarantees — issues and trades in securities — foreign exchange and currency transactions — payment transactions for domestic nationals — foreign payment transactions under certain conditions — other business (e.g. non-monetary deposits) 	<p>Activity:</p> <ul style="list-style-type: none"> — associating labour and resources for selected purposes — obtaining credits in the country and abroad — extending credits, issuing guarantees for securities — issuing and trading in securities — foreign exchange transactions — foreign payment transactions — collecting of savings deposits abroad on behalf and for the account of its members

groups of 25 to 50 organisations who become partners for this purpose. The bank is established when the founders have drafted and accepted a self-management agreement for the bank. The basic bank has unlimited liability and has broader terms of reference and scope than internal banks; it is free to specialise in any form of banking service that the founders think fit. This can cover, for example, retail banking deposit taking and business development. Such decisions are agreed between the founders who will each have contributed to the initial funds of the bank from their own reserves. Normally a basic bank's liability is proportional to its socially owned assets.

The objective of a basic bank is to pursue and develop the economic interests of the founder OALs. This objective is achieved by aiming to optimise money circulation based on a policy of profitable and rational lending so that the resources are employed and allocated to provide the best results to the founders.

The objective of a Yugoslav bank is not to make a profit as such but to provide a service where revenue approximately equals costs. Bank charges for founding members will be at a preferential rate compared with other customers.

3.5.2.3. Associated Banks

Basic Banks obviously will not have unlimited assets to cover the needs of large financial operations such as the capital and finance markets and will have staff with only limited experience of, for example, foreign banking systems for export purposes (N.B. only 4 basic banks are permitted to make currency transfers abroad).

The 1977 law allows basic banks to establish another, upper tier of banking, known as United or Associated Banks or occasionally as Business Banks. This is formed from a partnership of basic banks; non-banking partners are not permitted to participate. Thus, in Western terms, an Associated Bank will approximate to the function carried out in the Head Office of a major clearing bank.

An Associated Bank is a self-management financial organisation which, based on a self-management agreement drawn up by the members of several basic banks, carries out development plans and current activity programmes, that exceed the scope and possibilities of basic banks as well as transacting various banking business of common interest.

The Basic Bank members themselves decide on the scope of business and work of the Associated Bank, i.e. the latter can perform all banking transactions envisaged under the self-management agreement on its establishment.

The act of formation of associated banks is very similar to basic banks, who likewise have unlimited liability in the associated bank which they have created.

There are 9 Associated Banks in Yugoslavia; the names and addresses are given in Appendix 6.2.2. For the foreign partner contact with the Associated Bank, with which the Yugoslav partner is linked through his Basic Bank, is essential. The Associated Bank will have established correspondence facilities with all major European banks; it will have experts who are familiar with all aspects of foreign currency allocation payment and transmission. It is most important, at an early stage in the negotiations of the foreign and local partner concerning hard currency requirements and transfers, that their proposals are discussed in detail with the Associated Bank. If the advice of the Associated Bank is taken, this can avoid many unpleasant delays in hard currency supply when the project is implemented.

Associated Banks only have other banks as customers, and do not maintain any branches in Yugoslavia, but will have representative offices in the major overseas commercial and financial centres. Thus, a foreign bank requiring to carry out transactions in Yugoslavia on behalf of its customers would open an account with one of the Associated Banks.

3.5.2.4. Other Organisations in the Banking System

There are in the current banking system two other categories of financial organisations. The first of these is made up of financial groups serving trade and industry sectors such as banking consortia and self-managing funds. In the second category are the various savings and credit banks serving the general population, e.g. savings banks, post office savings

bank, savings and credit co-operatives and various savings and credit services attached to farming and artisanal co-operatives.

3.5.2.5. Yugoslav Bank for International Economic Cooperation (JUBMES)

JUBMES was established in 1979 as a special financial institution engaged in the provision and refinancing of export credits granted by either Yugoslav exporters or their banks to either foreign purchasers or their banks for capital equipment purchased from Yugoslavia. JUBMES is the only institution which offers insurance to Yugoslav exports against non-commercial risks. JUBMES also is involved in developing and promoting various forms of long term investment when Yugoslav and foreign partners enter third country markets; this co-operation can involve either manufacturing or financial investments. Further aspects of JUBMES activities are discussed in Chapter 10.5.

3.5.3. How foreign currency transactions are handled by Yugoslav banks

In considering foreign currency transactions the situation is rather complicated. Each BOAL is restricted to a single foreign exchange account: this will be held by any basic bank which the BOAL cares to nominate. Individual foreign currencies will be held in separate sub-accounts. If a BOAL attempts to open a second foreign exchange account at another bank the penalties are severe. First the bank accepting the account will be liable for the funds placed in this account and secondly, the account will be blocked so preventing the holder from employing any funds in it.

It must be understood that if a foreign partner, as investor in a joint venture, holds a foreign exchange account with a basic bank, he is not free to move these funds without prior approval. This is why it is most important that all details of foreign currency requirements and transfers are spelt out in the agreement: since if the agreement has received both republic and federal approval it will mean that the transactions are obligatory.

Nevertheless, it is also necessary to obtain National Bank clearance for any foreign currency remittances that have to be made. In practice it is always good practice to arrange that these transactions are made well before the end of the year, since as December approaches, it is quite likely that there will be, temporarily, insufficient hard currency available to meet all payments.

During the depths of the economic crisis in 1981 and 1982 many foreign partners met considerable difficulty in organising approved payments in hard currency from deposits they held in Yugoslav accounts. Since the IMF agreements have been implemented this situation has been resolved.

Basically the system for pooling hard currency reserves for payments works on a multi-tier basis. Thus, for any requested payment which has been approved, funds will be sought initially on a regional basis. If there is a temporary shortage at this level, it is automatically passed to the republic level, from whose hard currency reserves the payments will be made. In the event that the required payment is so large that it exceeds the republic's resources the request is automatically and immediately transferred to Federal level for action by the NBY.

A Western banker operating in Yugoslavia was quite categorical; since this system had been put into operation there had been no defaults on any approved hard currency payments and these payments had been made promptly without any undue delay. It should be emphasised that such payments also require the support of an irrevocable guarantee placed with a Yugoslav bank.

Finally, on the subject of hard currency, it is interesting to note that Yugoslav citizens are encouraged to deposit hard currency in savings accounts. There is an average maximum withdrawal rate of \$ 350 per month from such accounts: in addition account holders are given special privileges in obtaining dinar loans up to 2¹/₂ times the value of their hard currency deposit. Interest rates are also pegged somewhat below the current 60% interest currently charged on non-priority and personal loans by Yugoslav banks.

1998-1999



CHAPTER 4

OPPORTUNITIES OPEN TO WESTERN INVESTORS

4.1. Introduction

In this chapter, devoted to the opportunities open to West European investors, we first of all examine the trading pattern for the country as a whole before considering those of the individual republics and provinces. We then indicate those sectors which have attracted Western investors up until now and, in terms of the Social Plan for Yugoslavia as well as the relaxed limitations in the latest version of the joint venture law, other sectors which may open up fresh opportunities.

We then consider certain limitations on the kind of activities which can be undertaken by foreign investors which are imposed by the joint venture and technical co-operation laws.

4.2. The size of the economy and trading pattern

As mentioned in Chapter 1 the Yugoslav economy may be compared with those of other developing European countries and falls, according to OECD comparisons, within a group made up of Portugal, Greece and Ireland. As such, Yugoslavia is bound to be strongly influenced by the economic trends which effect all Western European economies.

Trade statistics (figures 4.2.) shows several interesting features of the economic situation in Yugoslavia:

- the serious trade imbalance of 1979/81, which was the culmination of the Yugoslav economic crisis, is now being successfully redressed,

Figure 4.2.(1). Yugoslav trade (US \$ millions)

	1981	1982	1983	1984
<i>Imports</i>				
Capital equipment (c.c.) *	2,428	2,045	1,416	—
Capital equipment (non c.c.)	450	388	422	—
Raw materials and semi-finished products (c.c.)	8,602	7,076	6,139	—
Raw materials and semi-finished products (non c.c.)	3,385	3,123	3,475	—
Consumer goods (c.c.)	716	514	514	—
Consumer goods (non c.c.)	176	188	188	—
Sub-total (c.c.)	11,746	9,635	8,069	7,759
Sub-total (non c.c.)	4,011	3,699	4,085	4,237
<i>Total</i>	14,757	13,334	12,154	11,996
<i>Exports</i>				
Capital equipment	1,735	1,840	1,733	1,787
Raw + basic materials	5,361	4,932	5,143	5,268
Consumer goods	3,833	3,469	3,037	3,199
Sub-total	10,929	10,241	9,913	10,254
Convertible currencies	6,441	5,854	6,270	6,588
Non-convertible currencies	4,484	4,987	3,643	3,666
<i>Total</i>	10,929	10,241	9,913	10,254

* (c.c.)= convertible currencies; (non c.c.)=non-convertible currencies.

Notes to figure 4.2.(1).

The two major components of total imports are fuels and lubricants, machinery and transportation equipment. The percentage of these as a share of the value of total imports is as follows:

	1981	1982	1983	1984
<i>Fuel and Lubricants</i>	24.0	25.7	27.2	29.3
<i>Machinery & Transportation</i>	27.7	27.8	24.0	22.1

Figure 4.2.(2). Manufacturing trade (US \$ million)

	1981	1982	1983
<i>Exports</i>			
Semi-finished goods	2,414	2,251	2,320
Finished goods	5,162	5,043	4,732
<i>Total</i>	7,576	7,294	7,052
<i>As % of total exports</i>	69.3	71.2	71.1
<i>Imports</i>			
Semi-finished goods	2,595	2,007	1,845
Finished goods	4,816	4,071	3,243
<i>Total</i>	7,411	6,078	4,088
<i>As % of total imports</i>	47.0	45.6	33.6

Source: OECD.

- this imbalance is entirely confined to Yugoslav trade with the West; Eastern bloc trade which remains in balance represents less than 45% of the total,
- the Yugoslav economy relies on imports of raw materials and semi-finished products,
- oil imports account, in value terms, for about 25% of all imports, while in volume terms the quantities of imported oil fell from 11.75 million tons in 1979 to 8.25 million tons in 1982.

The Yugoslav economy may be summarised as one with limited raw material resources, though with quite considerable unexploited mineral reserves still. There appears to be little prospect of any significant discoveries of oil or gas, thus Yugoslavia can expect to be heavily in deficit in its energy requirements for many years to come. Any expansion of nuclear power is going to be severely hampered by the lack of hard currency to acquire the technology and equipment required. Coal reserves, while considerable, are of limited quality; nevertheless these would provide an interim means of limiting the need for large increases in imported energy.

In terms of natural resources, Yugoslavia is rich, with excellent agricultural lands, abundant forests and water supplies. Slovenia, for example, is a net exporter of hydro-electricity. Likewise for agricultural products, Yugoslavia is a net exporter with the potential for greatly increasing its production of cereals, livestock, fruit and vegetables if the latest agro-industrial techniques are to be applied.

Industrial production in Yugoslavia is heavily engaged both in manufacturing semi-finished products for export and converting intermediate products into finished articles (figure 4.2.(2)). With this arm of the economy operating both as an earner of hard currency through exports of finished goods and as a means for import substitution there is a clear aim to develop these industrial skills as a further means of increasing hard currency earnings.

For the individual investor his attention will be focused on the economic condition of the republic where his activities are concentrated. In the section that follows some of the key economic indicators for each of the republics of autonomous regions will be discussed.

4.3. A comparison of the republics' economies

As has been mentioned earlier, Yugoslavia consists of 6 different republics, reflecting not only the cultural, historical, and geographical differences of each region but also the very high degree of control which each republic wields over its own economic policies. Comparative data for each of the 6 republics and 2 autonomous provinces is given in Figure 4.3. and is based on 1983 statistics. It is immediately evident how wide is the gap which separates the 3 leading republics of Serbia, Slovenia and Croatia, which have well developed industrial bases and effective infrastructures, from the less fortunate republics which are clearly at various stages of development.

As emerging economies, the republics of Bosnia-Herzegovina and Montenegro, as well as the autonomous province of Vojvodina, are clearly making considerable progress, particularly if account is taken of the current levels of investment. It is clear that Kosovo presents a special case and is still at a critical stage of underdevelopment. This is the classic dilemma: whether scarce development funds should be diverted or not from the promising growth points in other republican economies in order to attempt to raise Kosovo's economic development to a level where its performance can approach that of the lesser industrialised republics of Bosnia-Herzegovina or Montenegro.

The situation is further complicated by the political aspects of Kosovo's problem.

The trading situation for the republics and autonomous provinces is given in Table 4.3.2. and shows a similar picture. In 1983 both Slovenia and Serbia almost succeeded in achieving trade balances, while Croatia and Bosnia-Herzegovina, if they could reduce their dependence on imported raw materials and semi-manufactured goods would then quite easily reach positive balances.

Several interesting points emerge from these figures:

Figure 4.3.1. Comparative Statistics for Republics

	BOSNIA & HERZEGOVINA	MONTENEGRO	CROATIA	MACEDONIA	SLOVENIA	SERBIA	KOSOVO	VOJVODINA
Population (on 30.6.83) thousands	4,223	600	4,632	1,967	1,914	5,744	1,677	2,043
Numbers in Employment	942	144	1,495	475	816	1,558	798	592
% of total population	22.3	24.0	32.3	24.2	42.6	27.1	47.6	29.0
Total Social Product (1972 prices) per capita: Dinars	11,520	12,950	20,970	10,950	33,100	16,635	4,695	20,230
Gross Fixed Capital Formation (1982) per worker: Dinars	17,490	27,500	17,000	12,760	16,065	15,340	4,535	17,480
Net monthly personal income: Dinars	15,056	13,270	17,316	13,137	18,259	15,063	12,783	16,153
CONSUMPTION								
Electricity per capita kwh	2,580	4,970	2,775	2,700	5,075	2,980	1,425	3,355
Private Cars per 1000 inhabitants	82	90	141	111	243	125	34	126
Telephone sets per 1000 inhabitants	94	105	144	83	208	137	41	123
TV sets per 1000 inhabitants	142	11	216	147	240	173	60	240
No. of inhabitants per doctor & dentist	723	649	464	560	442	446	1292	500
Hospital beds per 1000 inhabitants	4.8	8.4	7.4	5.3	7.8	6.3	2.9	5.9

Figure 4.3.2. Trading Position of Republics and Autonomous Provinces in 1982

	BOSNIA & HERZEGOVINA	MONTENEGRO	CROATIA	MACEDONIA	SLOVENIA	SERBIA	KOSOVO	VOJVODINA	TOTAL
IMPORTS – 1982 Million Dollars (1)									
Raw Materials semi-manufactured	484.8	71.8	928.1	299.7	955.9	1144.8	117.3	338.6	3913
Fuels	670.8	23.6	814.2	288.3	346.5	303.4	9.0	678.9	3239
Manufactured Goods	223.1	23.6	320.6	86.7	471.5	530.6	381.5	94.0	1859
Capital Goods	244.6	37.7	311.2	86.9	331.4	446.3	66.5	113.2	1838
Consumer Goods	54.2	5.6	130.3	31.9	129.8	224.5	7.7	65.8	701
TOTAL	1677.5	162.3	2504.4	7935.5	2235.2	2649.5	238.7	129.0	12154
EXPORTS – 1982 Million Dollars (1)									
Raw Materials semi-manufactured	464.6	101.5	536.5	193.8	433.1	530.3	60.4	271.5	2592
Fuels	17.2	4.9	139.1	3.6	6.4	7.1	0.5	27.9	207
Manufactured Goods	361.8	13.5	357.2	102.1	498.0	749.0	97.8	161.6	2344
Capital Goods	240.7	5.8	567.1	31.6	356.0	413.5	0.2	114.4	1733
Consumer Goods	378.0	38.9	528.8	171.7	778.3	809.4	31.0	301.1	3037
TOTAL	1462.3	164.5	2128.7	502.8	2071.9	2509.4	189.8	923.8	99.3

(1) Exchange rate employed dinars
Source: Statistical Yearbook of the SFRV 1984

- Croatia's apparent imbalance in imported capital goods which is not reflected by any boost in manufactured exports; a time lag between installation and productive operation of capital equipment may be the cause of this.
- Serbia and, surprisingly, Bosnia-Herzegovina achieved the largest positive balances with respect to manufactured goods.
- Montenegro, albeit from a very low level, has achieved a small overall surplus of exports over imports.
- Among the industrialised republics, Serbia has the smallest trade imbalance with only 5.6% excess of imports over exports, and is closely followed by Slovenia with 7.9%.

One noteworthy result that can be seen in these trade figures is that in all cases, exports of consumer goods very significantly exceeded imports. An analysis of intra- and inter-regional trade in Yugoslavia in the 1984 OECD economic survey for Yugoslavia indicates that these trade statistics do not necessarily reflect the true situation. In examining the movement of trade and services over the period 1970 to 1980 it is shown that the regional trade rose from 59.9% to 68.8% and inter-regional trade fell from 27.4% to 22.2%. The 1981-85 Plan included a regional policy for domestic joint ventures between regions in order to develop trade and other economic linkages between the more developed republics and the less developed republics and autonomous provinces. So far little has materialised in this direction and considerable efforts are needed to overcome this severe fragmentation of the national market.

4.4. Areas of opportunity for Western business

An idea of those sectors of the Yugoslav economy where collaboration has been most sought after by both local and foreign partners can be gained from an analysis of the sectorial breakdown for joint venture agreements that have been approved and implemented. In table 4.4.1. the sectors benefitting from foreign partner investment are listed in order of decreasing frequency. The leading sectors (nearly 45% of the total joint ventures) have been in the chemical and allied products together with manufacturing and engineering industries. The variety of products being manufactured in both joint venture and technical co-operation agreements is large, ranging from cars, trucks and tyres to plastics, typewriters and clothing.

In the future the most suitable areas for technical co-operation will be those which require neither large investments nor long lag times between feasibility planning and production and which show a net generation of hard currency. One legacy of the investment 'fever' of the seventies is that a more realistic view is now being taken in Yugoslavia regarding suitable areas for long term co-operation. The accent is on projects where 'small is beautiful', particularly if they also introduce new technology and the latest techniques. This climate is creating a more selective approach by defining suitable areas where long term co-operation can be mutually beneficial.

For the Yugoslav partners, clearer requirements are now being set out giving criteria for identifying the most appropriate areas for collaboration, namely:

- the opportunity must provide the means of increasing exports, if possible as an immediate result of the collaboration, rather than as a 'knock on' effect or up-stream of the exportable product or service.
- a second requirement is that the project should permit an increase in import substitution, especially concerning consumer products,
- it must demonstrate an ability to increase national income (in other words, it must be profitable!).

Thus investment in manufacturing capacity will only be encouraged in selected areas, particularly those involving advanced technology such as electronics or economically strategic areas, e.g. car assembly. As it is clearly spelt out in the 1981-85 Social Plan, one

of the top priorities is to make industry more efficient and to redress imbalances that are evident in present industrial operations.

Opportunities in service related industries such as tourism, health and leisure should not be overlooked. In the 1984 version of the joint venture law, forms of co-operation specifically directed towards such ventures have been included. The law, as will be discussed in chapters 6 and 7, foresees joint ventures where the foreign partner's share of the investment will be in real estate (hotels, holiday villages...) or infrastructure and equipment (yachts, flotillas, caravans, ski towns...) while the local partner contributes for his share, the staff, supplies and services needed for the functioning of the project. Further it is envisaged that time-sharing schemes in tourist regions will be encouraged with the participation of foreign partners. As these concepts are still at an early stage there is no experience to guide the investor in this area, but it is noted as one where there may well be a rapid growth of joint ventures in the future.

A specific bill to regulate and legalise time-sharing projects is presently passing through the Assembly and is expected to permit foreigners to buy, for periods of 5 to 30 years, time-shares equivalent to a number of weeks residence in tourist resorts. These rights will be fully transferable in the normal way by sale, leasing or inheritance. A similar package is also envisaged for the long term leasing of yacht moorings.

Another opportunity for foreign investors is also in the course of being legislated; this concerns the creation of Customs-Free Zones. This law is currently under debate and it envisages the creation of these zones at key trade entryports (e.g. Adriatic and Danube ports as well as road and rail terminals). Yugoslavia's strategic position on the West Europe-Middle East trunk road axis, as well as its links with African and Asian markets, can all assist in promoting trade through the creation of such free zones.

The law is expected to allow manufacturing and production operations in these zones in addition to the transit of goods. Under specific circumstances it could be a considerable

Figure 4.4.1. Distribution of joint ventures according to sectorial activity

<i>Ranking</i>	<i>Sector</i>	<i>Percentage of Joint Ventures in Sector</i>
1	Metal manufacture	17.0
2	Chemical & allied Industries	16.5
3	Automotive	10.4
4=	Electrical engineering	8.5
4=	Mechanical engineering	8.5
4=	Food, Drinks & Tobacco	8.5
7	Other manufacturing (tyres etc.)	6.7
8=	Construction industries	4.9
8=	Paper, Printing & Publishing	4.9
10=	Textiles	2.4
10=	Timber, Furniture	2.4
10=	Bricks, Pottery, Cement	2.4
13	Instrument engineering	1.8
14=	Agriculture, Forestry, Fishing	1.2
14=	Miscellaneous services	1.2
16=	Mining & Quarrying	0.6
16=	Clothing & Footwear	0.6
16=	Utilities	0.6
16=	Professional & Scientific services	0.6

Source: *Joint Ventures in Yugoslavia; Opportunities and constraints; P.F.R. Articien and P.J. Bickley; Journal of International Business Studies.*

Figure 4.4.2. Priority areas for know-how acquisition, technical co-operation, and joint venture investment

A. MANUFACTURING

1. Electric power generating plant (conventional and nuclear).
2. Mining, ore extraction and refining equipment.
3. Process plant equipment for mining, chemicals, wood products, food and building materials industries.
4. Machinery for agriculture, building operations, transportation and machine tools industries.
5. Control and monitoring equipment for automation in industry, all types of telecommunications equipment and traffic control equipment.
6. Production of components e.g. castings, mechanical, electrical and electronic products.
7. Petrochemicals, industrial and organic chemicals and pharmaceutical intermediates.

B. ENERGY (refer also to Mining and Appendix 3)

1. Prospection, development and production of new energy sources including oil, natural gas, uranium, shale oil and renewable energy such as solar, geothermal and biomass.
2. Construction of additional power generating capacity for burning only indigenous fuels or hydroenergy plants, upgrading or converting existing power plants to total solid fuel firing. In parallel, the National power transmission grid will be extended with new transmission lines at 380, 220 and 110 kV.
3. Expansion of coal mining capacity, sinking of new mines as well as modernisation and expansion of existing pits.
4. Oil refining capacity to be installed to maximise naphta and gasoline production and reduce fuel oil production.

MINERALS: Ferrous Metallurgy (refer also to Appendix 3)

1. Prospection, development and exploitations of iron ore reserves.
2. Ore enrichment, smelting and refining plants to reduce dependency on imported iron ores.
3. Improved collections and utilisation of scrap iron.
4. Seek out means to develop suitable coking coal from indigenous supplies.
5. Manufacture of heat resistant, high grade steels.

MINERALS: Non-ferrous Metallurgy (Zinc, Aluminium, Copper, Lead)

1. Prospecting for economically exploitable mineral sources.
2. Installation of ore-enrichment facilities with the emphasis on poly-metallic non-ferrous ores, in particular rare and precious metals.

MINERALS: Non-metallic

1. Expand extraction and production facilities for refractory/insulating materials, quartz, phosphates and salts.

C. AGRICULTURE AND FOOD

1. Means to increase production through improving strains, yields, harvesting and farm crop processing for:
 - cereals crops (wheat, maize, rice, rye, barley, oats).
 - root crops (sugar beet, potatoes...),
 - oil seeds (sunflower, soya, rape...),
 - high added value crops (tobacco, vegetables, fruit, grapes...).
2. Agro-industrial equipment (irrigation, drainage, geothermal and solar heated glass-houses...)
3. Improved breeding and herd management of livestock for production of meat, dairy products and wool.
4. Agro-chemicals production.

D. FORESTRY

1. Increased mechanisation in timber felling and recovery operations.
2. Improved forest management and forest fire control.

E. JOINT DEVELOPMENT OF THIRD MARKETS

1. Use combined expertise of foreign and Yugoslav enterprises to initiate, manage and create projects in third markets in such fields as:
 - civil engineering (building, dams, irrigation...)
 - educational computers
 - turn key electronic manufacturing and assembly plants.
-

advantage to locate a joint venture in one of these zones, especially if the project is dependent on imported materials and a significant proportion of the products will be going for export. Any detailed evaluation of such an opportunity must wait until the law is enacted and these zones have actually been created.

The specific priority areas where economic growth is targeted on a national level are listed in figure 4.4.2. This should be taken as indicative of general trends, since the autonomous nature of Yugoslav planning does not force a Yugoslav enterprise to channel its investment plans into specifically defined paths. The first category of export industries clearly offers the Western partner the most attractive opportunities as foreign currency earnings will be generated.

The other categories do not implicitly offer the same degree of opportunities for generating hard currency and therefore will not provide the same degree of opportunities.

There is certainly some truth in the complaint that Yugoslav industry has operated far too long in a sellers' market with very little regard taken of competitive pressures. One result of the present austerity with the fall in the real value of disposable incomes is that the more forward looking Yugoslav producers are now making a conscious effort to attract the consumer. If, so far, only lip service has been paid to the claim that the economy must be guided by market forces, it would appear that certain sectors, particularly those in consumer goods, are at last beginning to respond to this change. In effect, the foreign partner will find that if his Yugoslav venture falls within the general guidelines and, on realistic appraisal, makes good business sense, then it will be actively supported by the local partner as well as those organisations party to the decision making and approval processes.

4.5. Areas closed to Western business

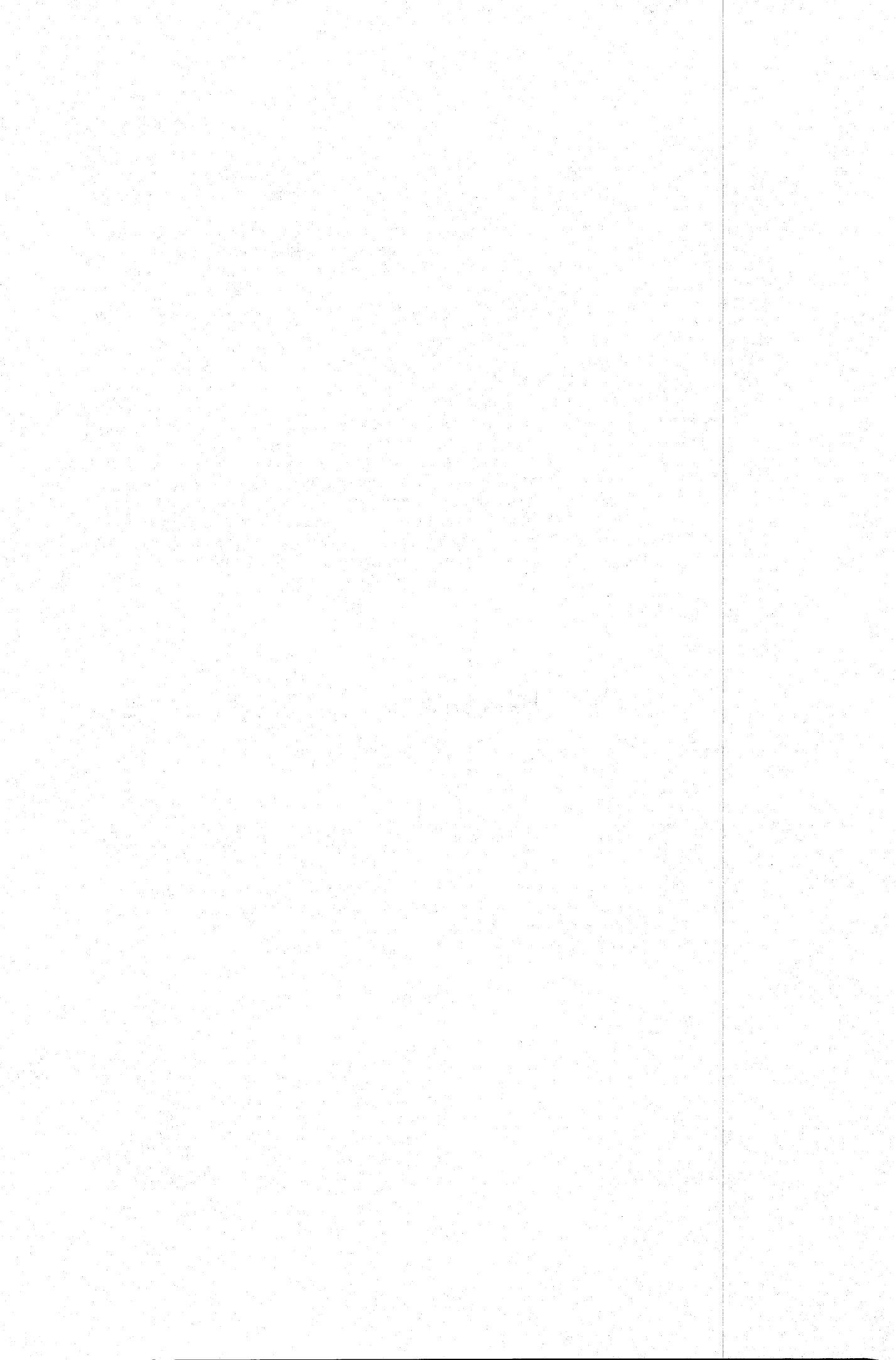
European companies may conclude agreements for:

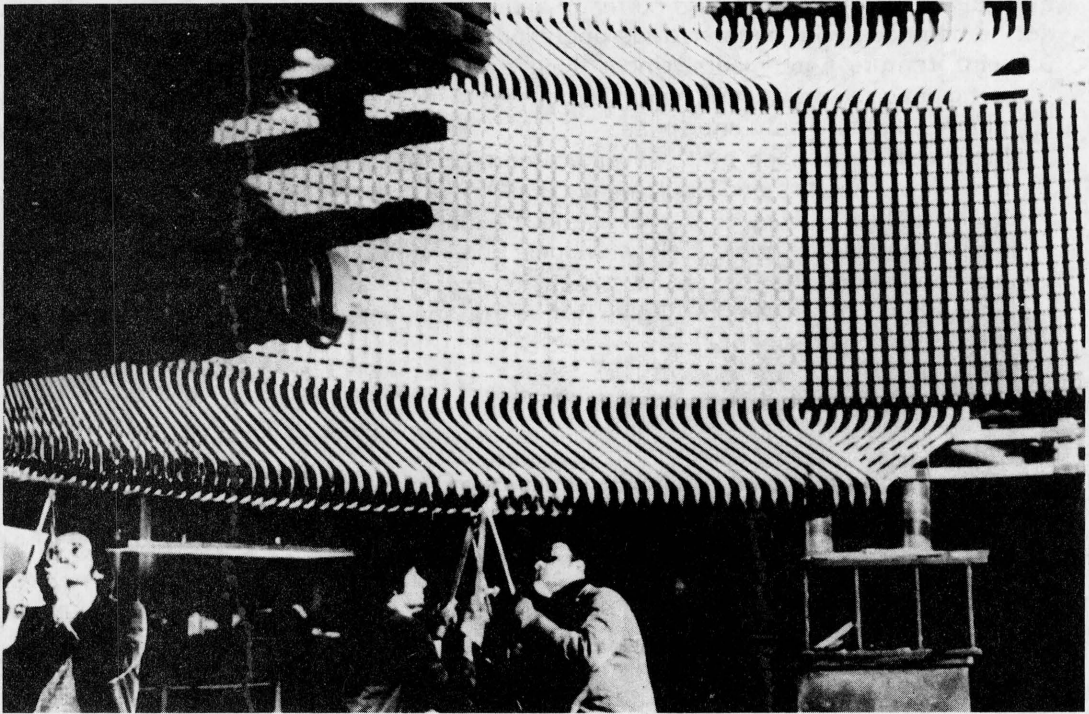
(a) technical co-operation which concerns:

- services that cannot exclusively form part of an agreement, (Article 11), armaments and military equipment which are only permitted following M.O.D. approval, (Article 55)
- know-how agreements that are not contrary to
 - national interests in defence, security
 - interests of national economy
 - other national interests (not specified)

(b) joint ventures except in the case of scientific research (Article 11) are excluded from:

- insurance
- trade
- social or public services except for health and recreation related activities. Other exceptions may be approved by the Federal Executive Council in agreement with provinces, for certain public services
- banking, which is regulated under the Federal Banking Laws.





CHAPTER 5

HOW WESTERN COMPANIES CAN GO ABOUT SETTING UP OPERATIONS IN YUGOSLAVIA

5.1. The various forms of co-operation open to Western firms in Yugoslavia

There are three basic forms of co-operation with Yugoslav enterprises which are open to the Western firms.

1. Licence Agreements: the sale of a licence to a Yugoslav enterprise.

The sale of licenses by Western firms is probably numerically the most important form of agreement: it is thought that some 800 licence deals have been approved with a large percentage being exploited.

The key to the acceptance of a licensing deal by the regulatory authorities is the issue of hard currency. If the deal will enable an enterprise to achieve a net hard currency gain (by exports or by import substitution) then the deal will normally be acceptable. The licence deal may also of course form a part of a co-operation agreement or of a joint venture agreement.

2. Co-operation Agreements. The basic principle of co-operation agreements is that the flow of imports and exports between the Western and the Yugoslav partners must be in balance with respect to their total value. A range of different detailed arrangements is permitted within the basic format (mutual delivery of component parts to be built into the same products, components from one partner built into finished product by the other etc.).

Yugoslavia encourages the establishment of co-operation agreements as the system has

built into it the balance of hard currency earnings and outflow. Such agreements should not be confused with counter trade operations which are discussed in chapter 11.

3. Joint Venture Agreements. Under these agreements the Western partner can take a participation in an existing Yugoslav enterprise or can, in partnership with a Yugoslav partner, create a new enterprise.

The investment made by the Western partner can take a variety of forms including know-how, patents and equipment. The Western partner has the right to repatriate profits and, of course, to participate in the management of the enterprise.

In the two chapters which follow we describe in detail the three forms of co-operation described above. In Chapter 6 we describe the legal aspects of the different types of arrangement and in Chapter 7 give further information on other practical aspects of the two types of agreement.

5.2. Types of professional assistance available in Yugoslavia for drawing up agreements and contracts

The services of both independent lawyers and accountants are freely available within Yugoslavia. Another useful source of advice for the foreign businessman is the International Investment Corporation for Yugoslavia (IICY): details are provided in Chapter 5.5.

Lawyers in Yugoslavia form part of the private sector and generally operate as individuals or small partnerships, on a fee basis at rates roughly equivalent to those applied in Western Europe. It should be noted that apart from a few individual accountants with experience of both Yugoslavian and European and N. American accounting practices, there are no private accountancy offices.

5.3. The role of local lawyers

The laws relating to agreements in Yugoslavia between foreign and Yugoslav businesses do allow a very considerable degree of freedom to specify the nature of the agreement to be made. Agreements are in many cases therefore, long and complex but highly specific documents. This is somewhat less so in the case of license agreements, which normally follow a form proposed by the licensee.

In the case of license contracts where the format of the agreement is reasonably standard, it is not strictly necessary to make use of a Yugoslav lawyer.

However, for other types of agreement, particularly for those of joint venture and long term co-operation agreements, it is more or less indispensable to make use of a Yugoslav lawyer specialised in this type of business. He may intervene once the two partners have been able to draw up an initial document specifying the type of agreement which they wish to conclude and will then draw up the formal agreement document.

The Yugoslav lawyers most important role, however, is to assist the Western partner in the phase when the agreement is being considered by the Yugoslav authority, the F.C.E.I. This committee does not admit the Western partner to its detailed discussions (which anyway take place in Serbo-Croat) though the Yugoslav partner will be able to be present. The Committee will however admit a Yugoslav lawyer representing the Western partner when it is in discussions with the local partner. It is strongly advisable that the lawyer should attend, in order to be able to discuss on behalf of the Western partner any amendments to the agreement that may be required.

It should be noted that there are an extremely small number of lawyers specialising in joint venture business, probably no more than ten for the whole of Yugoslavia.

5.4. When a Yugoslav accountant can be useful for the Western firm

We suggest that there are a number of reasons why the assistance of a local accountant can be beneficial to the Western partner. For example, he can be of help:

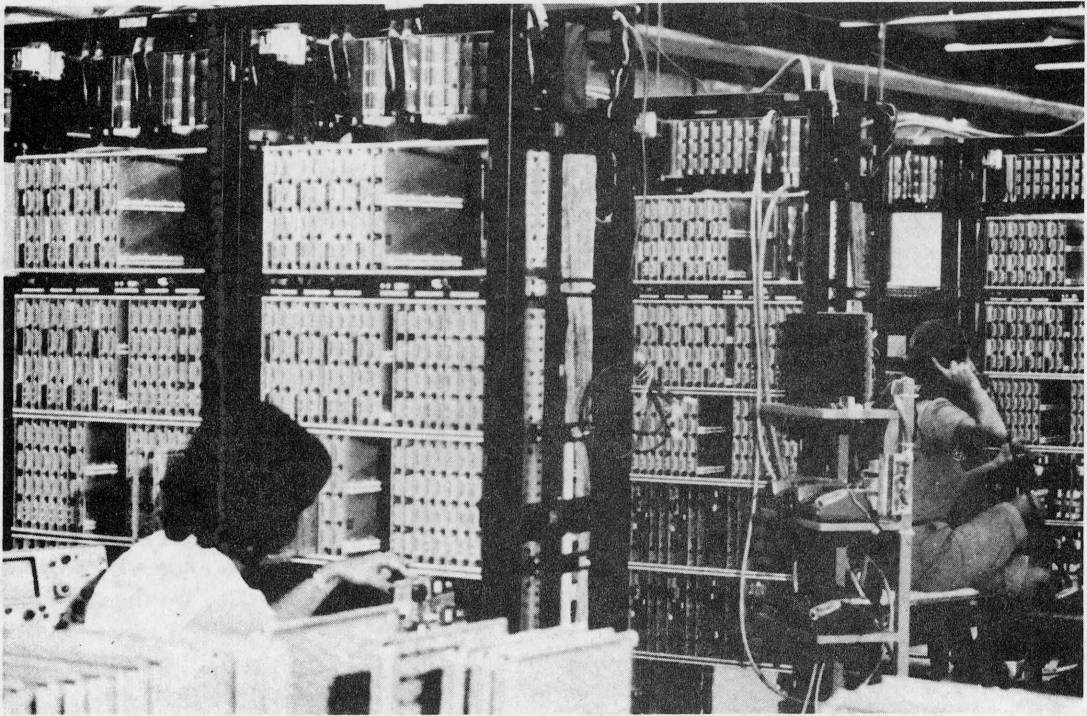
- in drawing up the financial part of the initial agreement: Yugoslav accounting terminology is very different to that in the West and is often rather confusing: an example is the critical area of the definition of profits.
- in assisting the enterprise to negotiate its hard currency entitlement, as he should be up-to-date with the rapid changes in regulations and practices in this respect.

5.5. The International Investment Corporation of Yugoslavia (IICY)

This organisation, established in 1969, is the subsidiary of a consortium of 55 Yugoslav and major international banks who have founded the International Investment Corporation to promote foreign investment in Yugoslavia. IICY can provide different services to potential investors: for example it can seek out investment opportunities and appropriate partners, carry out feasibility studies, provide financial assistance and participate in certain types of joint venture investments.

The IICY can also provide advice on a fee basis to the investor concerning financial, credit, and legal aspects of establishing in Yugoslavia. The IICY is also prepared in certain circumstances to participate financially in enterprises where foreign capital is present.

Another organisation has recently been formed in January 1985: the Centre for International Economic Co-operation, founded by the Institute for International Affairs and Economics, which is also intended to assist foreign business organisations.



CHAPTER 6

LEGISLATION CONCERNING TECHNOLOGY TRANSFER, TECHNICAL CO-OPERATION AND JOINT VENTURES

6.1. Background and brief history of the legislation

Yugoslavia, along with certain South American countries, was among the first of the developing nations in the 1960's in its desire to establish closer economic and technological relations with the developed, industrialised countries of the West, to enact specific legislation for know-how transfer. It is a fact that, for a country at Yugoslavia's stage of development, the flow of technology is nearly always one way from the major industrial countries.

To foster this desire for technical co-operation a number of laws and regulations have been passed and subsequently changed or amended in order to facilitate and increase economic relations with other countries.

The basic motive impelling Yugoslavia to invest in know-how is to gain a faster rate of technical development. Thus anyone from an industrialised background, on reading Yugoslav legislation, must always remember that this transfer is a transaction between parties of unequal strength. The weaker party is aiming to improve its technological expertise from a supplier who is both familiar with and who has mastered this expertise. Particular clauses in this legislation have specific didactic objectives which, at first sight, may puzzle the reader from a Western European background who normally does not expect legislation to be concerned with such matters. Quite simply, the aim of these clauses is to ensure that both parties to a transfer agreement can confirm that the technology

developed in, and for, one environment can equally well operate and produce satisfactory results in another and industrially less developed one.

This chapter examines the legislation in the 4 chief areas of know-how and technology acquisition, namely:

- technology transfer by purchase of licence, patent or trade mark rights,
- long term technical co-operation with co-production,
- business-technical co-operation,
- joint venture investment employing the transferred technology.

The first 3 areas of technology transfer are covered by a single law on long term technical co-operation which was last amended in 1982. The fourth area, joint venture investment, is covered by a separate law which was substantially revised and approved in November 1984. This chapter will examine the specific legal requirements for both the foreign and local partners embarking on co-operation agreements covered by these 2 laws.

6.2. How the Law defines technology transfer

Both the long term technical co-operation agreement and the licence contract form part of what is known as 'technology transfer'. As these two agreements are regulated by the long term co-operation law (*) it is useful to note what is understood legally by the notion of 'technology'.

Article 22 from the most recent version of this law defines it thus: '... is the material right to inventions and the right to the technical-industrial documentation' (A translated version of the full text of the law is given in appendix 8).

The material right to invention includes the right to patents, a design, an industrial prototype as well as to a trademark (also any factory or service mark). The right to designs, drawings and technical documentation gives access to the manufacture of a whole or part of a product or of a chemical substance.

The law goes further than just defining an invention. It also stipulates that know-how includes all relevant skills and up to date experience obtained by the licensor in making the technology work. The various categories of experience as defined in the law include the following:

- raw material specifications
- production and manufacturing guidelines and techniques
- process secrets
- quality control specifications
- any programming or other relevant technical information
- equipment use and maintenance
- methodology for conducting market research.

This is obviously a very broad review of technology but it has a certain logic. It is designed to protect the licensee by ensuring that the foreign licensor does not hold back information.

6.3. General remarks concerning Yugoslav legislation on intellectual property

In Yugoslavia intellectual property is protected by the 'Law on protection of inventions, technical improvements and distinctive marks' (Official Gazette No. 34/81, 19th June 1981): this contains no less than 138 sections.

Naturally this law is consistent with the Yugoslav socio-economic philosophy of self-management. It has, as an objective, the aim of stimulating the development of Yugoslav

(*) The full title is 'The law on long term production co-operation, business-technical collaboration and the acquisition and assignment of the material rights to technology between OALs and foreign persons', Official Gazette No. 30/83, 17th June 1983.

technology and reducing dependence on foreign technology which is considered excessive with a tendency to stifle original scientific research in Yugoslavia.

The intention is to develop patent legislation which takes into account the requirements of the self-management system and the socially owned means of production by the creation of a patents system which can be used regardless of whether an organisation has either developed or acquired these patents. At the same time care has been taken not to infringe or diminish the interests of foreign patent owners as defined in the Paris convention.

This law defines for Yugoslav jurisprudence a concept of 'industrial property'. Basically, it requires within certain limitations, that an invention, patent or licence may not be held solely by one BOAL if other OALs wish to use this know-how (articles 59 to 69). This concept of the 'pooling' of know-how derives from the thesis of self-management. The licensee, in article 136, will have the right to special compensation when his know-how is pooled with several Yugoslav enterprises.

For a Western organisation, willing to license its technology based on a patent and wishing to protect this property, this notion may appear dangerous. However, it does flow naturally from the Yugoslav concept that an individual is not normally the owner of an invention but that the invention belongs to the community. Further, this invention cannot be kept by a single group of workers. They are obliged to share it with others in return for licence fees. In effect this clause has already given rise to a variety of interpretations. A foreign licensor is strongly recommended to consult a Yugoslav lawyer with experience of these cases before concluding a licensing agreement, to limit the risk of having his know-how 'pooled' in this way.

6.3.1. Patent laws

If the licensor wishes to establish his rights under Yugoslav law he needs to have a Yugoslav patent even though he may have patents established in other countries.

Yugoslavia has signed certain international agreements concerning patents (Paris convention on the Protection of Industrial Property; Yugoslavia signed the convention in Stockholm on 16th October 1973). As mentioned earlier the patent legislation within the country is governed by the 'Law on Protection of Inventions, Technical Improvements and Trademarks'. In addition Yugoslavia was an original member of the Patent Co-operation Treaty (Washington 1970).

The scope of patent protection in this law covers any invention which is either a new solution to a specific technical problem and:

- is both industrially and technically feasible,
- can be applied in industrial production, or other forms of either economic or non-business use.

Those items which cannot be patented are specified in article 23 and may be summarised as follows:

- pharmaceuticals, food products for either human or animal use,
- fertilizers, pesticides, herbicides and fungicides except if it concerns the chemical process used in their manufacture,
- chemical products, again with the exception of process know-how and technology,
- alloys, with the same exception of the above 2 categories,
- production and use of nuclear fuel,
- anti-contaminating devices, i.e. techniques for the protection of the environment, as well as the processes for the manufacture of such devices,
- any inventions which are illegal and/or unethical,
- all plant, micro-organism and animal species and all biological processes relating to their generation and growth; the producing processes and the preparation of products obtained from the use of micro-organisms, are however excepted,
- compositions containing more than 2 substances.

The principles by which Yugoslav enterprises or associations may share the use of patents is covered in articles 59 to 79. If a foreign licensor's protected technology, via a Yugoslav's

patent, is shared by several Yugoslav enterprises, then the law stipulates that special compensation must be paid for this sharing of know-how, (the 'pool' clause article 136). Article 136 also specifies that the foreign licensor may not sell the same license to several different Yugoslav enterprises.

A patent is granted by the Federal Patent Office (FPO) on the basis that the invention meets certain standards of originality, potential for application and use etc. The patent will be subjected to an examination which needs to be completed no later than four years after the initial filing, otherwise the patent application is no longer valid.

The patent confers an exclusive right of commercialisation of the objects covered by the patent. The patent can be cancelled at any time if the description of the invention is not adequate to enable someone with experience and skills to apply it. If this is the case, a demand to cancel the patent must be lodged. Furthermore, the right to commercialise any products from the use of the invention of Yugoslavia will only apply when there has been a specific and conscientious manufacture in Yugoslavia, that is when it satisfies a major part of the needs for this product on the Yugoslavian market. The length of patent protection is limited to 7 years from the date of filing. This can be prolonged for a further 7 years at the discretion of the Federal Patent Office if the invention has been effectively exploited: the Chamber of Economy of Yugoslavia is entitled to confirm whether or not this has in fact occurred.

The law also includes a category of supplementary patents which can be employed to protect a development of the original invention or its extension to other applications.

Another sanction which can be enforced against non-exploitation of a license is that of 'obligatory or mandatory licensing'. If the owner of the patent refuses to allow anyone interested in using it or imposes excessive conditions on this use, an individual may use it, if 4 years have elapsed after the original patent application. A royalty figure then has to be agreed by the parties concerned. This obligatory licence will only be granted to an organisation with the production and technical equipment allowing them to exploit the invention and where alternative inventions are not available or where the invention is seen as particularly important in satisfying the social needs of the country (a so-called official licence). A mandatory licence will also be granted in the case where a domestic organisation has a more recent patent which it cannot utilise without having the rights to an earlier patent it does not have any rights for.

In cases where the purpose for which a patent has been requested are not met, anyone can then demand annulment 2 years after the delivery of the obligatory license. Likewise annulment may be requested if the invention has provided the licensor with a privileged position to obtain very high and unjustified prices on the Yugoslav market.

6.3.2. Registration of technical improvements

A technical improvement may be defined as an improved technique or work procedure obtained through, or as a result of, a novel application of known technology or processes. This improvement must show an economic benefit or gain in productivity for the OAL concerned.

In common with the invention itself, technical improvements can be pooled with any OAL as long as royalty payments are made to the OAL where the improvement has been developed.

6.3.3. Registered designs and models

To obtain legal protection for a design or drawing it must be original, that is to say distinguished from others previously registered and others which have become accessible to the public without being registered. However the law, in its latest version, indicates that novelty will have to be established in relation to Yugoslavia only and not, as before, in relation to foreign countries as well.

The law distinguishes between any plans or designs prepared within an OAL making use of its resources and assets from those created through the personal efforts of the originator.

In the first case, as for an invention, the originator must inform the OAL of his development of a plan, design or prototype. The organisation must then reply within 60 days if it intends to register it; if not, the originator is then free to register it in his own name. In this case, however, any OAL can make free use of the design without permission, though it must pay a royalty fee fixed in relation to the benefit obtained. In addition to these material rights, the originator has the rights to all written work concerning his invention.

As with other forms of invention, drawing, design or prototype, if the originator attempts to prevent its exploitation it can be the subject of an obligatory licence. This is intended to prevent someone obtaining a monopolistic position in the Yugoslav market on the basis of a protected design. In addition, it has the effect of preventing imports into Yugoslavia of products protected by registered designs.

6.3.4. Trademarks

Yugoslavia is a signatory to the Madrid Arrangements (*) on trademark registration. As described in chapter 6.3.1. one and the same law covers both trademark use and registration and patent protection.

As defined in this law a trademark 'protects a sign which, in economic transactions of goods or services, is intended for distinguishing the same or similar kinds thereof'.

A trademark (for a product or service) must be registered with the Federal Patent Office (Savezni Zavod za Patente, Mirkova 1, 11.000 Beograd). They will then decide whether the trademark can be used within nine years from the registration date or the registration will be cancelled. Similarly, a trademark used only once and then abandoned for more than three months can be cancelled. This recently introduced piece of legislation is designed to prevent foreign market monopolies being built up through the control of unused trademarks. The legal protection of trademarks will not be granted in the following cases:

- if the mark is contrary to the legal requirements and ethics of socialist self-management principles,
- if it is judged inappropriate for making a distinction between goods or services,
- if the mark is in effect a label giving details of the type of goods or service, its purpose, date and method of manufacture, quality, price weight and place or origin,
- if it is usually designating a particular type of commodity or service,
- if the mark is considered likely to cause confusion by misleading the average consumer regarding its origin, type or quality,
- if the mark includes within its design or copies official signs or symbols commonly used to certify quality or guarantees,
- if it is identical to an earlier application made by someone else for the same or similar goods or service,
- if its mark resembles one used to protect similar goods or services and which, by its resemblance, can lead to confusion for the average consumer,
- if it contains or resembles the flag, coat of arms or other emblem, name or acronym of a country or international organisation except where its use has been approved by the competent persons.

The image and name of a person cannot be protected if that person has not signified his agreement.

A trademark can be licensed only on condition that the technology to ensure a good product quality is also made available at the same time. A Yugoslav enterprise which acquires a foreign trademark through a licensed agreement *must use its own trademark in parallel* (Article 134) giving equal identity to the two trademarks. The purpose of this provision is to prevent a Yugoslav enterprise becoming too dependent on a single foreign trademark. This could obviously place it in a vulnerable position if the license agreement under which the trademark was accorded for the Yugoslav market were to be terminated. This clause

(*) International Registration of Marks of Manufacture of Commerce.
N.B. Neither the U.K. nor the U.S. are signatories to this convention.

does not seem to have discouraged Western companies. However, experience has taught them that the conditions for using both trademarks in parallel should be discussed and fully agreed on before a final contract is signed.

6.3.5. Country of origin

The law on patents also protects the country of origin labels for certain goods (natural products whether agricultural, industrial or handicrafts) whose characteristics are essentially due to climate or soil (natural factors) or to traditional production or treatment methods (e.g. cultivation factors in the region of production).

The YCE decides whether the necessary conditions are adequately fulfilled using such labels. It will also ask advice from the relevant Chamber of Economy of the republic or province. To become an authorised user of a label of origin, the enterprise must manufacture or sell the product which has been so registered.

The enterprise must be registered with the Federal Patents Office, based on a proposal from the relevant Chamber of Economy. The user obtains rights, for five years, which are renewable again every five years so long as the condition attached to the label's use are observed.

In contrast, the legality of the label of origin is for an indefinite period.

Non-authorised use of labels of this kind is forbidden, even when expressions such as 'type', 'methods', 'process' are used.

6.4. The Licence Agreement

6.4.1. The licence holder's position

Technology transfer, as defined in Yugoslav legislation, is obtained by means of a licence agreement. Under this agreement the owner of the technology grants a licence for exploitation of this technology to a Yugoslav organisation. In Yugoslavia licence agreements can be freely negotiated between commercial partners: this is on the Yugoslavian side any OAL. However the FCEI, which must register the agreement before it can be implemented, is required to ensure that the agreement is correctly drawn up according to the Technical Co-operation Law. (*). The law does specify a number of specific requirements and the most important of these are in Articles 24 and 37. Article 24 specifies that:

- (i) The contract must describe the technical and economic objectives to be pursued by the enterprise acquiring the licence and the conditions under which this acquisition will be made (Clause 1).
- (ii) The licensor will certify that the technology transferred, the means of transfer and accompanying documentation are appropriate to realise the objects (Clause 1).
- (iii) The licensor guarantees the user or any third party against damages resulting from the use of the technology or of products produced from the technology when this has been correctly applied (Clause 8).

In the above 3 cases both contracting parties are at liberty to determine by mutual agreement their respective rights and obligations. A second group relates specifically to the supplier of the technology; these obligations are as follows:

- (iv) The licensor undertakes that the technology is complete and correct for the purpose as defined by the technical and economic specifications of the recipient (Clause 2).
- (v) The licensor must agree to keep the licensee informed and up-to-date on all improvements (including inventions) made in relation to the technology transferred, as well as any manufacturing improvements. The law offers considerable latitude in negotiating a clause to this effect in the agreement which is fair to both parties (Clause 4).

(*) The official title of the law published in the Official Gazette No. 30/83 on 17 June 1983 is: 'Legislation on long term co-operation to boost production, on the establishment of business links abroad, on technical aid, and on the acquisition of foreign expertise by OALs (revised version)'. A translation of the law is given in Appendix 8.

- (vi) The licensor must provide assistance in the provision of raw materials, intermediates and equipment to the extent that it is within the licensor's capabilities and in the event that the recipient requests such assistance (Clause 5).

A third group of clauses in Article 24 relates to obligations on the supplier of the technology which, if the recipient does not accept, are then prejudicial to a legally valid agreement.

- (vii) The licensor must guarantee that the use of the transferred technology will have no harmful effects on the environment or on personal health: where such harmful effects are found he must provide instructions for the necessary protection of persons or the environment (Clause 7).
- (viii) The licensor must indemnify the recipient for any damages which arise from either the use of the technology or the products from this technology so long as all the instructions received from the licensor and the guidelines in his documentation have been fully observed (Clause 8).
- (ix) The signatories will consider items of information specified as confidential in the contract to be technical and commercial secrets for a mutually agreeable period (Clause 10).
- (x) The licensor guarantees to provide adequate instruction and training to personnel involved in making use of the technology (Clause 3).
- (xi) The licensor can only be penalised if the results promised in the contract are not achieved when the licensee has correctly employed the requisite technology, following in detail all the instructions of the licensor (Clause 6).

So far as article 37 is concerned, it forbids certain types of restriction, whereby the licensor could limit the rights of the Yugoslav licensee.

These provisions are a consequence of the unequal technological and economic position of the party acquiring the technology as well as the desire of the suppliers of the technology to ensure that the limits under which the technology is being transferred do not prejudice his other technical, marketing or trading operations. Such clauses can be termed restrictive clauses, of which there are 10 in this law. They are as follows:

- (i) The licensor is not allowed to prevent his licensee from applying or extending the technology or the use of innovations or productivity improvements: nor can the licensor prevent him from improving or completing or developing the technology through his own research and development activities (Clause 1).
- (ii) The licensor cannot give a similar license to another organisation of associated labour without giving compensation to the first (Clause 2).
- (iii) The licensor must allow the licensee the right of acquiring similar technology from other sources (Clause 3).
- (iv) The licensor cannot cause the recipient to renounce in advance his rights to a patent or other advance developed from his own R & D undertaken during the period in which the technology is being exploited.
- (v) The licensor cannot include a clause which prevents the licensee from contesting the validity of the patents and other protected rights relating to the licence,
- (vi) prevent the licensee from making any further improvements, in either the process or its productivity (Clause 8),
- (vii) limit the licensee in his freedom to purchase raw materials and spare parts required for the acquired technology (Clause 7),
- (viii) limit the licensee in his freedom to make his own decisions regarding pricing or marketing of the products from the acquired technology (Clause 9),
- (ix) limit the export marketing territory in which the licensee may wish to sell the products of the acquired technology, except for those countries where the licensor has his own production facilities or has already granted exclusive rights for the products to a third party.
- (x) The licensor cannot prevent his licensee from continuing to use the technology acquired, nor from selling the product or services, after the contract has expired or from

the fourth year after the last improvements or changes have been notified by the licensor (Clause 6).

These last 2 clauses have constituted something of a stumbling block for the whole system of licenses. Clause (ix) appears in effect to leave the licensor without protection or payment three years after the expiration of his agreement. It has been criticised by many Western commentators. Yugoslav spokesmen have indicated a willingness to reach a compromise solution, but no modifications have so far been seen. However, while in theory this looks an alarming situation, the practical experience of licensors is that it is not a serious problem.

An interesting case is the one of Gillette where it was able to licence razor technology to Yugoslavia in a series of stages, with technology which was in the course of being superseded in more advanced markets.

The clause (x), has also attracted criticism, since major exporting organisations are worried about the potential competition arising in their existing markets from a Yugoslav licensee. In practice, the agreement will be quite specific regarding the countries to which the licensee is free to export products arising from the use of the know-how.

This obviously leaves the negotiators a considerable margin for manoeuvre from which they do not always draw the fullest advantages, and it should be noted that the 1981 amendments to this law have gone some way to meeting the numerous objections that Western companies raised concerning the earlier version of this law.

The law also contains one important concession in article 37. It specifies that the FCEI can approve a contract which contains one or more clauses which conflict with the legal requirements.

Bearing in mind the diversity of conditions which can apply when many different technologies are involved, waivers of this kind are granted when it is apparent that there are no harmful consequences for the Yugoslav enterprise.

This can arise when a request is submitted by the republic or autonomous province in which the license is to be exploited, to the effect that the contract is necessary and that the Committee can consider there will be no consequences prejudicial to the interests of Yugoslav workers.

8.4.2. Approved forms of licence and royalty payments

While the law specifies that the licensor is remunerated in foreign exchange, and even gives some priority to reserving foreign exchange for this purpose, it still is the case that the transfer of foreign exchange has been a general point of weakness in the whole system of technology transfer.

During the period in the 1970's, when Yugoslavia had good reserves of foreign exchange, no problems arose. However, with the severe shortage of convertible currency at the beginning of the 1980's, this situation changed. As a result there has been a considerable decline in the number of new licence agreements concluded.

Article 25 of the law allows the negotiators full liberty in defining all aspects concerning royalty payments.

Regarding the compensation for the use of technology the law is not unduly restrictive in this aspect for either of the partners. It does, however, require that lump sum figures are supported by some sort of breakdown. Either the agreement should contain a specification relating to the compensation or else, if this cannot be provided, an indication of the elements used as a basis for calculating the compensation should be presented. Any agreement covering the purchase of raw materials, components, equipment, etc., must specify these individually by category, with its appropriate value.

However, certain types of payment are not approved. For example the licensor cannot demand from his Yugoslav licensee:

- (i) a payment for any components, spare parts or services when the licensee has not used the technology acquired through the contract (Clause 1).
- (ii) cumulative payments (for whole products or parts) (Clause 2).

(iii) an increase in the payments when the quotas fixed in the contract have been exceeded (Clause 3).

(iv) payment of additional royalties for exports to particular countries (Clause 4).

Royalty payments are made through the normal channels.

Yugoslavia has had periods of difficulties over convertible currency payments: at times this has been aggravated by the relative financial autonomy of republics and provinces which often have other more pressing needs. As a result there have been delays in royalty payments. For the Western partner there is, however, a choice to be made concerning the manner in which he wishes to be paid. These alternatives are as follows:

(i) proportional royalties

This is based on the system that the more the licensee sells the more royalty he pays: the risks are thus shared. However, at the beginning of the 1980's the lack of foreign exchange resulted in occasional long delays in transfer of royalties. Furthermore some enterprises which theoretically had sufficient foreign exchange found their transfers blocked by the central bank of their republic for balance of payments reasons.

A further problem was the imposition of price controls: this meant that sometimes selling prices were not adequate to recover costs and this resulted in production being reduced or stopped so that no royalties were generated.

(ii) lump sum royalties

The system of a single lump payment for the licence has an advantage of clarity: but probably tends to leave one or other of the partners dissatisfied in the end.

(iii) a royalty payment incorporated with other supplies

The licensor increases the price of materials supplied to the licensee in such a way as to cover the royalty: as priority is more likely to be given to foreign exchange for these imports it means that the licensor stands a better chance of being paid.

Ultimately, the success or failure of a licensing agreement depends on the 2 partners' efforts to develop a suitable business relationship. In terms of currency convertibility, the onus is very much on the Yugoslav partner to ensure prompt and regular payments to his foreign partner. In terms of revenue, particularly due to the partial and temporary imposition of price controls, neither partner has been able to take much action if this decreases. The value of the royalty payments, due to the combined effects of inflation and dinar devaluation can certainly suffer some erosion.

6.5. Technical Co-operation Agreements

6.5.1. Legislative developments

During the course of the 1960's a considerable number of individual license agreements for the exploitation of patents or trademarks were concluded without any legislative control between the Western firms and Yugoslavian enterprises. However, since the products involved were destined mainly for the home market these contracts caused a drain on foreign currency for royalty payments rather than bringing in foreign exchange.

The law on long term co-operation, first passed in 1978 (Official Gazette No. 40, 14th July 1978) attempted to stem this haemorrhage. The Yugoslav authorities laid down in this law that henceforward 'co-operation' would not be in one direction only. Where licences were acquired they would preferably form part of a composite agreement for production with an *exchange* of products, '... these did not necessarily have to be entirely or exclusively for products covered by a licence'. It was accepted that royalties would continue to be paid, but the objective would be to establish an approximate equilibrium in payments between the licensor and licensee.

As mentioned earlier, the same law applies both to licence agreements as well as to technical co-operation agreements.

This 1978 law appeared, however, to go too far; it was too restrictive and weighted too heavily against the Western investor and following criticism from Western Europe and the United States foreign co-operation interest with Yugoslavia diminished. The situation has been largely rectified by changes to the law made in 1983.

The basic or underlying objective of long term co-operation agreements is, according to this law, to ensure that Yugoslavia participates in World Markets ('International Division of Labour'), on a basis of equality with other nations.

The fruits sought from this participation are as follows:

- to raise the levels of production technology,
- to increase the productivity of the work force,
- to manufacture higher quality products,
- to improve the competitiveness of Yugoslav products in world markets,
- to provide national markets with more sophisticated and higher quality products.

Agreements were to last normally for a minimum of 5 years or, in exceptional cases, for only 3 years. The law foresaw two types of agreement:

CO-OPERATION IN PRODUCTION
and
TECHNICAL COMMERCIAL AGREEMENTS

6.5.1.1. co-production agreements

The law defines long term co-operation in production as a common development, in collaboration with the Yugoslav partner, in a joint programme of the production and mutual exchange of semi-finished components and finished products under one of the 7 possible arrangements (article 6):

- a) the two partners mutually supply parts for incorporation into similar or identical products,
- b) the foreign partner supplies component parts to the local partner for final product assembly, which is then delivered to the foreign partner along with manufactured components from its own factory,
- c) the Western partner supplies raw materials or semi-finished products while the Yugoslav partner supplies finished products in which these have been incorporated,
- d) the two partners mutually deliver parts or elements for erecting, completing or fitting out either:
 - factories, installations of industrial systems for use in energy production, agriculture or transport etc.
- or:
 - precision electronic, electrical or mechanical components which will be assembled into complete instrumentation, control and electronic systems.
- e) the local partner delivers to the foreign partner components (electrical, electronic, mechanical) to complete a system on machines which is then supplied complete to the Yugoslav partner,
- f) the foreign partner delivers components (defined as in 'e' above) which allow the Yugoslav partner to assemble or complete a finished system or assembly which is then delivered to the foreign partner,
- g) the two partners mutually supply finished products of the same kind.

The law does not allow the partners to exchange the components or finished products within the same period of time (article 9).

Agreements relating solely to services are not considered to be production agreements (article 10). However they can be considered under the heading of techno-commercial agreements.

The law requires that the co-production agreement is concluded as a written contract between the two partners involved (article 3). Among the specific features of this contract which the law requires are the following:

1. duration (article 7)

A normal minimum duration is envisaged of 5 years. Exceptionally a 3 year minimum duration will be permitted by the FCEI under certain specific conditions, these are:

- that when the production involves a rapidly changing technology, the local partner is able to master the production processes on his own account without any assistance from the foreign partner.
- if the objectives of the co-operation can be obtained in under 5 years.

2. the contracting partners to the agreement (article 16).

Only manufacturing organisations can be partners to a co-production agreement. In the case where the Yugoslav enterprise is either a COAL or a WO they are permitted to conclude an agreement so long as it clearly states the BOAL or producing organisation which will be implementing the agreement. For the foreign partner, the agreement is limited to manufacturing companies, unless the law of the country prohibits this company from being a contracting partner to an agreement, in which case a nominee is acceptable.

3. payment and settlement of accounts:

The agreement must specify:

- currency (or currencies) to be used for payment by both partners.
- delays permitted for settlement of accounts.
- mode of payment.

Two alternatives are offered under the law (article 48) for this latter requirement: either a special foreign exchange account is opened with a Yugoslav bank authorised for hard currency transactions or a current account (in dinars) with the rights (of both partners) to balance credits and debits.

4. disputes (article 57)

Unless the partners agree to specify a special court for arbitration, any disputes will be heard under Yugoslav law in a local court.

Where there is co-operation in production it should be noted that the mutual exchange of goods between partners must not be purely in the nature of barter trade (see Chapter 13). On the contrary, the collaboration presupposes a transfer of technology, allowing the Yugoslav partner to manufacture certain well defined products. Such technology transfer will be based, therefore, upon a patent, a design or a trademark. In other words, on some form of a license agreement which has already been covered in chapter 6.4.

6.5.1.2. techno-commercial co-operation agreements

Agreements for techno-commercial co-operation between local and foreign partners on a unilateral or multilateral basis may be concluded under one of the following 7 forms (article 20):

- a) research and development leading to technical innovation or technical improvements on the basis of a jointly established programme,
- b) research, planning and preparation of documentation for the manufacture of a specific product on the basis of a specific technology,
- c) market research studies for selling products manufactured in common (which can serve as a basis for joint ventures, co-production agreements or techno-commercial co-operations),
- d) manufacture of products for marketing in common,

- e) engineering and other commercial activities in third markets which involve exclusively the sale of products and performance of services.
- f) maintenance of equipment or instruments and the training of personnel for their operation and maintenance.
- g) research or specific studies of national interest.

As in the case of co-production agreements, the partners must meet certain requirements, though these are less strictly defined since techno-commercial co-operation does not exclusively involve the exchange of goods with easily definable values. Thus the contract must indicate that the partners receive equivalent value for the information exchanged whether it consists of inventions, know-how or services. If it is the latter, then it must be specified in the contract that these services will be provided jointly by both partners in, for example, third country markets.

The regulations concerning those organisations who can be party to such agreements are similar to the co-production agreement except that a greater degree of liberty is permitted in the composition and obligations of both domestic and foreign partners. The bottom line is that the agreement must state how the local partner is going to meet his financial obligations in hard currency, e.g. through the regular export of goods or services, and he must provide formal evidence of this to the authorities prior to entering an agreement and also to implementing one. Arbitration conditions are the same as for co-production agreements.

6.5.2. What is required from the two partners?

As has already noted, a long term-co-operation agreement will contain clauses concerned either with the exchange of manufactured products or with the manufacture of these products according to licensed potential procedures or methods developed by the Western partner.

The law requires that the value of imported products cannot exceed that of exported products (article 12), both for the totality of the agreement as well as on an annual basis. In the next section (Chapter 6.5.3.) we will see how any imbalance in this respect can, and needs to be, redressed.

In addition, it is specified (article 13) that the value of the Yugoslav part of production must reach at least 15% of the total value of the finished product and also that production must begin within two years of the registration of the agreement (article 28). In special circumstances the Federal Committee for Energy and Industry will allow exemptions to this rule with a lower quota being accepted if the benefits gained from the co-operation in terms of technology transfer are substantial.

So far as technical co-operation is concerned this must be based upon good up-to-date technical practice, while the agreement itself must show evidence of either improved efficiency and higher productivity or the provision of innovative services (article 21). In respect of both production and the techno-commercial aspects, the two partners must exchange all technical information which can lead to improved co-operation.

The law does not permit the foreign partner to impose certain types of restriction in the assessment: this includes the restrictions of article 37 discussed earlier in section 6.4.1.: in that the following restrictions may not be imposed:

- (a) Clause 7 of the celebrated Article 37 which allows the Yugoslavian partner to procure raw materials, production materials, spare parts and equipment where he wants and to use them as he likes.
- (b) Clause 10 of the same article, whereby the Yugoslavian partner has the right to export anywhere in the world the products covered by the agreement, other than those where the Western partner has production facilities or has already given a production licence.

There have been, of course, strong objections from the point of view of the Western investor to both these clauses, which nonetheless have remained in force in the 1983 revision of the law. However, in practice many exceptions to these clauses have been permitted and generally very few problems have arisen due to these two points. This has

been because either a gentleman's agreement was established between the partners or the negotiated terms contained in the approved agreement offered a better solution to both partners than was apparent from the legal framework.

6.5.3. The foreign exchange position in co-operation agreements

Long-term production co-operation offers certain advantages to the domestic partner when compared to regular foreign trade. Regardless of the type of commodity concerned, it may be imported or exported freely over the period of duration of the agreement, while the foreign exchange funds generated in this manner may be used for payments of goods imported on the basis of that co-operation undertaking. The foreign exchange funds so obtained may also be used as payment in compensation for the technology acquired and used.

Article 4.7. specifies that the BOAL may use the full amount of convertible currency it earns from the exports of manufactured goods coming from technical co-operation agreements to import the materials and components needed to fulfill the domestic part of the agreement. Alternatively, a portion of this hard currency may be used to pay royalty or license fees which might be part of this agreement.

The latest amendment to the law includes an additional article no. 48, which requires each BOAL to maintain a separate convertible currency account with the bank for the purpose of settling any debts or claims for the foreign partner. This agreement between the 2 partners must specify the arrangements under which these payments are to be made. These accounts must be kept in reasonable balance, the limits of indebtedness of the OAL and the foreign partner are defined in article 49 and must not exceed 40% of the value of the agreed annual shipments.

Further, if at the end of a year's exchange of goods, there is a chronic shortage or surplus in the convertible currency and if less than 50% of the proposed value of goods has been exchanged in the preceeding year, the surplus or deficit must be rectified within 90 days, by the required volume of imports or exports.

6.6. Legislative aspects of joint ventures

6.6.1. Introduction

During the years 1965-1975, a period of economic reform in Yugoslavia termed 'Market Socialism', it was recognised that there existed certain structural deficiencies in technology, product and equipment design, quality control and business skills. To overcome the deficiencies a policy was launched to foster foreign business co-operation, particularly with Western companies, by encouraging all forms of co-operation from licensing agreements through to joint venture investment.

Though there had already been in existence certain ad hoc agreements covering foreign investment in Yugoslavia, the first law to define and approve joint ventures with foreign partner investment was drafted and passed in July 1967. It was termed 'The Law on Foreign Investment into the Domestic Organisations of Associated Labour', (official Gazette No. 31/67). This law underwent several modifications (official Gazette Nos. 34/71, 22/73 and 26/76) before being redrafted in 1978. This law was termed 'The Law on Capital Investment by Foreign Persons in National Associations of Labour' (official Gazette No. 18/78).

During the last 2 years, in the wake of the economic crisis, there has been a move to delete what were felt to be certain restrictive clauses in the 1978 version of the law which has discouraged investors in recent years from seeking opportunities in Yugoslavia. This has culminated in a substantially redrafted version of the 1978 law which in November 1984 was adopted by the Federal Assembly (official Gazette No. 64/84 of 28.11.84), a translation of this latest version of the law is given in an Appendix.

While this chapter is not specifically concerned with the mutations of the various versions

of the joint venture laws from 1967 it is important to recall the fundamental tenet of Yugoslav legislation concerning application of foreign capital. Primarily resulting from the basic characteristics of the Yugoslav socio-economic system the assets of the foreign partner in the venture are considered as contributions or deposits in an enterprise established by the local partner. In exchange for this deposit the foreign investor gains certain rights and obligations but is not a co-owner of the enterprise.

From this point of departure stems many of the conceptual problems facing the Western businessman contemplating such an investment in Yugoslavia.

The latest version of the joint law offers the Western businessman both increased protection for his investment and the opportunity for an improved return on his capital. The law now includes the principle of limited liability for the foreign partner where he is guaranteed the right to:

- profits from his share of the venture without any limitations
- transfer abroad of such profits
- reappropriate invested capital on termination of the joint venture agreement
- parallel contracts in the languages of contracting partners
- protection of investment from subsequent changes in legislation which might adversely affect the project viability (taxes and contributions are excluded from this protection)
- terminate the agreement if the objectives described in it are not being realised.

6.6.2. The objectives of a joint venture

The law proclaims an almost total freedom for the partners (negotiators) to agree on what seems to them to be the best means for realising a common objective. However the law contains certain clauses designed to safeguard what is termed the 'inalienable rights of Yugoslav workers'.

The Yugoslav legislation (article 1) lays down clearly that an investment from abroad must have a defined aim. This can be one or more of the following aims:

- to allow Yugoslavia to have a wider participation in world markets
- to acquire modern technology
- to increase both exports and the availability of products in the home market
- to decrease the need for imports
- to promote employment in Yugoslav enterprises and to increase their turnover.

The law refers specifically to genuine co-operation which must not be on a sporadic basis. This is why the contract must be of a *long term nature* (Article 3).

So a minimum of 5 years duration for the joint venture appears to be the rule and a maximum of 20 years is proposed, but these points can be negotiated.

Alternatively, the partners can decide that the agreement finished at the moment where one of the foreign parties investment is entirely repaid as with the FIAT/IFC/CREVNA/ZAS-TAVA joint venture.

The foreign investment must therefore always have a creative aspect and it must also have a respect for the human environment. The sole pursuit of capital appreciation is therefore, not acceptable and is unlikely to be approved. It is conceivable that foreign investors may not wish to involve themselves in the management of the joint venture; in effect the law does not oblige them to do so. However, the capital invested must have either an industrial or a service function. When the law refers to the 'inalienable right to the workers', this obviously refers to the self management system, whose application, theoretically, can have an influence on the powers of the foreign investor.

The law also specifies (article 7) certain items which the agreement or contract must contain, these are as follows:

- describe the aims, purpose and means for which the invested resources are to be used,
- procedures to be adopted in obtaining foreign currency for the agreed payments to the foreign partner of his income share and investment repayments.

Areas or sectors in which joint ventures are not allowed or specified in article 11; these are limited to insurance, trading activities and social projects except those concerned with

health and recreation. The latter exception refers to tourism projects which are also favoured by article 33 where the local partner may contribute services in lieu of income (*), thus leaving the foreign partner with the disposable income from the project.

Joint ventures involving banking operations are not covered by this law and fall into the sphere of banking regulations. These ventures will be regulated by the 'Law on the Yugoslav Bank for International Economic Co-operation and on Joint Financial Organisation' which is in the course of being modified for this purpose.

The joint venture contract cannot be of indefinite duration, though there is nothing to prevent a renegotiation to extend the agreement prior to expiry. Obviously changes in the economic environment can lead to partners wishing to change a contract or to renegotiate it. The official view is that additional investments or re-investments of capital are not treated as new contracts; they can be considered as annexes to existing joint venture contracts. Obviously a new contract will require the partners to submit it for approval before it can be implemented.

In no case can a joint venture contract give rise to any participation by the foreign partner in the Yugoslav enterprise after the expiration of the joint venture agreement (Article 18). The activity of the Yugoslav OAL, which is laid down in its self management agreement, must be the same as that which is prescribed in the joint venture agreement. If an OAL wishes to embark upon a new activity it will have to create a new entity. Furthermore, if the OAL is not accustomed to *selling* products which it makes it may be necessary to include as a third partner another OAL which is authorised and experienced in the marketing and sale of products. A monotype escapes from this kind of restriction because it contains no BOALs.

The inclusion of additional foreign and Yugoslav partners is allowed for (Article 10); it is also envisaged that with the greater liberty for financing joint ventures the foreign partners can include as co-investors banks and other financial houses providing the loan capital.

6.6.3. Forms that the foreign partner's investment may take

The level of investment is decided by the partners. The FCEI will obviously want to ensure that the level of planned investment is sufficient to achieve the objectives of the agreement. There is no maximum investment level for the foreign partner, who will also be allowed to have a majority share. No minimum level of investment is defined for the foreign partner, in so far that it remains a joint venture. Furthermore, it is no longer necessary for both partners to secure all the capital required at the outset.

The investment can be made in one of three ways (Article 9):

- (a) in a new Yugoslav enterprise, e.g. a BOAL
- (b) in an existing enterprise in its entirety: thus, for example, the investment may be in a production line even if this does not constitute a BOAL but a semi-autonomous entity appearing as such in the accounts of the enterprise.
- (c) in the division of an existing enterprise on condition that it has semi-autonomy and this is provided by its bookkeeping.

If either a WO or COAL is party to a joint venture they must designate one or more BOALs within the enterprise to be vested with the rights and obligations centred in the contract. Investment can be made in the form of liquid capital, in machinery or non-physical assets such as patents, designs or trademark (Article 12).

Investments through goods is only possible when these are goods not produced in Yugoslavia in the quality or quantity required: such goods may be in the form of equipment, raw materials and semi-finished goods (**).

(*) A definition of income is given in Chapter 9.1. It is also important to realise that while the formula includes production norms it is not possible in the contract to define precisely the number of workers required for a specific operation nor their personal salaries.

(**) The Yugoslav Chamber of Economy (YCE) determines this requirement for non-Yugoslav materials and equipment. This approval has to be obtained before a joint venture agreement can be accepted.

Licensing of patents, designs and trademarks or of technical documents and experience can constitute a form of capital: the value put on these must be realistic (article 34).

Where capital is brought in, this can be done as a series of tranches as agreed between the partners. Credits and loans can be used so long as these do not exceed the amount of actual capital assets provided by each partner in the organisation (article 8). These loans obviously have to be repaid before the termination of the venture. If the profits are insufficient to repay loans, the partners must take up the deficit in amounts proportional to their share of the capital.

The concept of joint ventures using credits to finance their formation and operation is a new addition to the law. Whilst not stated explicitly, it is implied that these credits should be defined as 'joint credits' which are directly contracted by the partners to yield a joint income. Any other credits are considered solely as having been contracted by an individual partner and are therefore not subject to the requirements of the joint venture agreement, thus they must be repaid from the partner's own income share. In the case of 'joint credits', the OAL is seen as the legal user of these credits, since the joint venture is not accepted as a legal entity it is unable to act alone as borrower. In this context the law now accepts that banks and other financial organisations (whether domestic or foreign) may be party to joint venture agreements when they are involved in providing the finance for such ventures.

6.6.4. Extent of foreign partner's risk and its protection

The protection of an investment in Yugoslavia against non-commercial risks, such as expropriation, nationalisation and other acts of force majeure, is comparable to most West European countries. In this respect Yugoslavia has concluded agreements to provide such protection with France, Holland, Sweden and the U.S.; negotiations are proceeding for similar agreements with other major trading partners.

The joint venture law gives a certain number of specific guarantees to the Western investor to protect his interest.

Article 43 covers the specific case of expropriation in the general interest according to a 'final ruling by the competent authority'. In such a case, the ruling requires that the Yugoslav partner compensates his foreign partner to the extent of the obligation it has undertaken towards its foreign partner. Payment must be made within 60 days following a final ruling in compensation for the expropriation of 'real estate'.

It stipulates that the risks and responsibilities of the investor are limited to the amount of his investment unless he has specifically taken on larger responsibilities (article 28). Furthermore the partners can agree to terminate the contract if the revenue over the course of several years operations clearly remains lower than predicted (article 13).

In addition, the law guarantees to the Western investor the following:

- his part of the profits (article 18),
- the repatriation of the capital invested (article 40),
- the availability of foreign exchange for the above two operations (article 30),
- decision making powers (articles 15, 16, 17),
- the possibility of arbitration in a third country (article 57),
- a valid contract agreed between the two partners and approved by the FCEI (article 4).

Finally the law also guarantees to the Western investor that all changes in the law which may put him into a less favourable position than that of the day on which the contract was registered will have no effect on him (article 5).

In the joint venture contract, as in the other co-operation agreements, the Western partner has to give a guarantee that the technology invested (machines and know-how) will give the predicted results. Sometimes the Western investor does not cover himself sufficiently against dangers attendant in this guarantee. There is a risk that he will make use of information based on experience in other countries but which will not be strictly relevant for Yugoslavia. Obviously raw materials may be different but also levels of productivity may be different. For example, if he is accustomed to using Brazilian iron ore which contains 18% ferite, he will find in Yugoslavia that he is obliged to use the locally available material

which only contains 7%. For instance, so far as productivity is concerned, he will not necessarily find in Yugoslavia the level of productivity to which he is accustomed in Western Europe. It is therefore important that the contract should be based upon real and incontestable data and figures. Article 7 emphasises that the partners shall agree in the contract on the number of workers necessary, their exact technical qualifications and the skills they need to have, labour rates, material costs, criteria to calculate depreciation rates and other specifications to determine the productivity of the joint venture.

6.6.5. Joint venture management and control in the self-managing enterprise

Article 15 notes that the foreign investor and the OAL may constitute a joint business board which will decide on matters common to the joint venture. The joint venture agreement will determine the composition of this business board, its role in governing the affairs of the joint venture as well as the way in which its members are chosen. Article 15 is now drafted in an identical manner to the corresponding article in the law regulating joint ventures between Yugoslav enterprises.

This joint business board must be formed within the OAL where the funds are invested and the OAL must be directly represented. In the case where several such organisations have participated in the creation of the new enterprise they will need to make an agreement to choose a number of common representatives (article 16).

In all cases the foreign investor and the OAL will have the same number of representatives (article 16). This article does not specify the particular questions on which the business board is required to take decisions, it merely states that these principles be enumerated in the joint venture agreement. The scope of the business board is considered in greater detail in Chapter 8.

Article 17 very briefly states that the business board decides on all matters relating to the joint venture, and thus provides for genuine participation by the foreign investor in the exercise of power in the affairs of the enterprise. The business board can decide on expenditure on raw materials, energy, equipment etc. It can also make decisions about their up-keep, repair, modifications, rebuilding and replacement but only after taking the advice and suggestions of the workers' council and in agreement with the management committee. However, in the case of those assets which belong to the Yugoslav partners and which are not the subject of the joint venture agreement, the business board has no competence to consider any questions relating to their assets.

So it is through the business board that the foreign investor participates in the management of the enterprise in which he has invested. The contract must specify the manner in which decisions are approved by the board as well as the number of members, how a president is chosen and other details concerning its functions.

In general, the experience of Western investors with business boards has been positive, though some firms have been involved in conflicts between the business board and the workers' council. It is prudent to propose in the contract a procedure for resolving such conflicts.

6.6.6. How are the profits established and distributed to the foreign and local partners?

This aspect which is dealt with in part 3 of the law (article 18 to 45) is discussed in detail in Chapter 9 and 10; it is worth noting that the latest version of the law provides clearer definitions of 'net residual income', i.e. profits, than the earlier version.

6.6.7. What are the partners' responsibilities in the case of unprofitable operations?

Article 29 defines a loss when the joint venture revenue during one year is less than the total sum of salaries already advanced plus any unpaid income and other legal obligations. These losses must be covered within the timescale granted by the law and in the terms of the responsibilities of the two partners of the joint venture as defined in the contract. Obviously the foreign investor gains no profit in that year, but in addition he must cover his portion of the loss from his own resources; alternatively his investment can be reduced

by this amount. However, the contract may allow losses and profits to be accumulated over a number of years. Finally, if an enterprise consistently shows losses, the joint venture contract can be terminated. In this case the foreign capital invested will be reimbursed after taking account of the losses incurred (article 39).

6.6.8. Termination of joint ventures

In a joint venture agreement the partners agree a termination date. An extension is permitted; the only formality required is to inform the Federal Committee for Energy and Industry that this is a simple question of renewal without any other contractual changes. The contract can be cancelled at any time during its life. This may be done for one or more of the following reasons as defined in article 13:

- (i) serious losses during several consecutive years,
- (ii) failure to achieve the common objectives,
- (iii) failure of one partner to honour his obligations as laid down in the contract,
- (iv) significant changes to circumstances prevailing at the time of signing.

Termination conditions are obviously important for a number of reasons. It allows the Western partner to terminate the agreement, for instance, if there is consistent obstruction by the workers' council to the business board or when the business board's recommendations and suggestions are systematically ignored on two or more consecutive occasions. It allows the Western investor to salvage the remains of his investment if substantial losses are incurred or if the Yugoslav partner defaults. It needs to be underlined that specific termination clauses can be inserted in the contract.

For example, if production has not reached a certain level, say, by the third year, an agreement can be terminated under condition (ii) above. The contract could specify that the foreign partner has the right to cancel the contract if the business board is unable to ratify the decision of the workers' council, as under (iii) above. Under (iv) the partners could agree to liquidate the joint venture if there was a substantial (and specified) increase in taxes levied on the profits.

Another aspect of termination has been that the joint venture ceases at the moment when the investors' capital has been returned to him together with all profits earned. This has a paradoxical effect that the more profitable the business, the quicker the foreign partner would be paid out. This effective limit on the amount of profit potential of the enterprise has been removed by the latest version of the law. In practice many foreign partners retain their earnings in the enterprise instead of repatriating them, so this is rather an academic point.

6.6.9. Eventual re-assignment of a foreign partner's share

Partners can agree a possible mechanism for the foreign partner withdrawing from the venture by ceding his rights and assets to a third person, whether it is a foreign partner or an OAL (articles 36 and 37). This is permitted under certain conditions: these are the following:

- (a) no opposition from the OAL which is the original partner of the joint venture,
- (b) all rights and obligations of the foreign partners first of all to be offered in writing to the OAL in which the investment was first made: it has 60 days to reply.
- (c) if it refuses, the foreign partner can make an offer to any person or enterprise but not at more favourable conditions from those in (b) above.
- (d) the OAL cancels the agreement if the foreign investor has contravened any of the above provisions.

Any transfer of assets and liabilities in a joint venture requires the approval of the FCEI: if the transfer is to another foreign partner this requires the change to be entered in the FCEI's register within 30 days of the transfer becoming effective.

The FCEI must be informed within 30 days of drawing up the agreement for cession and must approve it, the cession must then be registered (article 37). The law makes provision

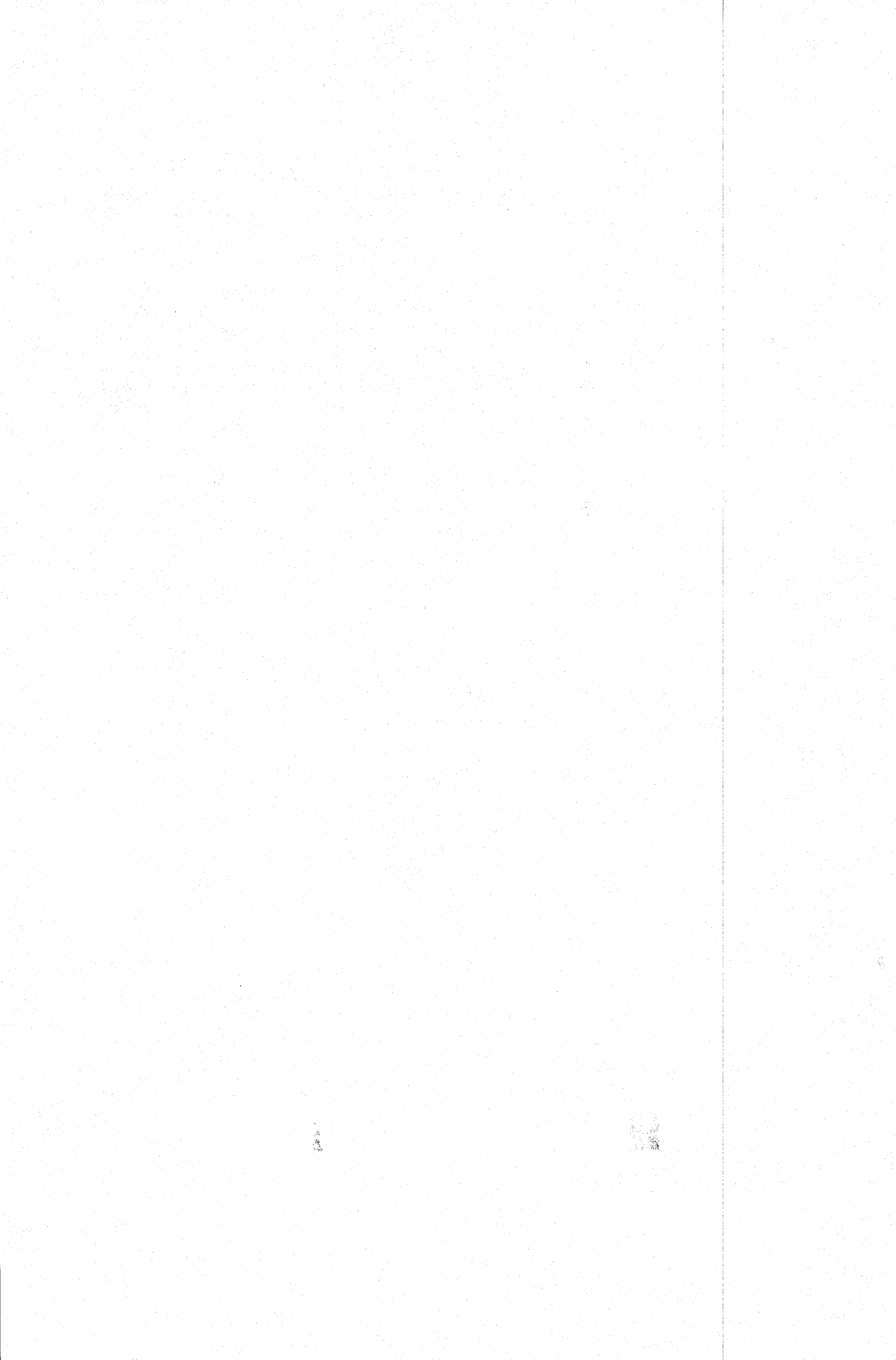
only for the foreign partner to withdraw in this way, though it is likely that if the Yugoslav partner wished to withdraw the procedure would be roughly the same.

The contract can contain conditions relating to the cession. For instance the partners could agree either that no cessions should take place before a certain lapse of time or else a cession could be forbidden.

6.6.10. Arbitration procedures

The joint venture agreement can specify an authority which would be recognised as competent to resolve any differences between the parties (article 57). This may be a foreign authority. It is in fact normal to specify a court in a third country such as Switzerland, or the International Court for Arbitration in Paris.

In this case a clause will be inserted into the contract stating that the contract will be governed by the laws of the country selected e.g. Switzerland. Unless this is made explicitly, it will be a Yugoslavian court which will be empowered to act in cases of Arbitration.





CHAPTER 7

PRACTICAL ASPECTS OF CONCLUDING AND IMPLEMENTING CO-OPERATION AND JOINT VENTURE AGREEMENTS

7.1. Introduction

The flow of technology into Yugoslavia, mainly from Western European and North American sources, grew rapidly in volume through the 1970's but declined somewhat in this decade. Approximately 700-800 licence agreements have been negotiated with Yugoslav enterprises and registered with the Federal Committee of Energy and Industry and about 250 joint ventures have been approved and 187 implemented. A breakdown of the total joint venture investment since 1968 is shown in table 7.1(1) according to the country of origin of the foreign investor.

As may be seen in table 7.1(2), EEC countries were represented in half the joint ventures and their capital amounted to one third of the foreign capital.

In all these forms of co-operation the Yugoslav priority is on technology and investment which will primarily generate export revenues and secondly enable import substitution by means of local production. This policy is not applied with absolute rigour, especially where the know-how relates to consumer products, such as Medicare products, jeans, sports, clothing and toiletries for example.

There is no central direction concerning the type of know-how purchased. It is entirely at the discretion of the individual enterprise and on its own initiative to develop links with a foreign licensor or investor with a view to collaboration. Equally, the foreign partner is quite at liberty to approach any Yugoslav enterprise to discuss possibilities of collaboration.

Figure 7.1.(1). Investments by persons of foreign nationality into Yugoslav Organizations of Associated Labour (Joint Ventures). 1968 - to 31 December 1984

Region/Country of Origin	Number of contracts	Investment in dinars		
		National participation	Foreign participation	Total
<i>EEC</i>	147	30,926,156,862	7,034,870,619	37,961,027,481
Federal Republic of Germany	67	9,443,953,247	2,156,577,957	11,600,531,204
Italy	33	4,865,636,087	1,087,134,616	5,952,770,703
France	12	1,472,940,314	694,032,057	2,166,972,371
United Kingdom	14	12,733,441,403	2,077,114,761	14,810,556,164
Belgium	8	1,201,075,430	381,029,390	1,582,104,820
Netherlands	5	273,466,485	178,354,413	451,820,898
Luxembourg	6	929,609,631	456,257,249	1,385,866,880
Denmark	2	6,034,265	4,370,176	10,404,441
<i>EFTA</i>	46	8,402,490,597	2,155,352,066	10,557,842,664
Austria	9	1,755,914,219	386,889,425	2,142,803,644
Switzerland	26	4,148,693,515	1,196,654,327	5,345,347,843
Sweden	10	2,397,554,563	552,624,814	2,950,179,377
Finland	1	100,328,300	19,183,500	119,511,800
<i>CMEA</i>	2	219,500,000	197,900,000	417,400,000
Czechoslovakia	1	75,200,000	59,600,000	134,800,000
German Democratic Republic	1	144,300,000	138,300,000	282,600,000
<i>Developing countries</i>	1	175,680,000	43,920,000	219,600,000
India	1	175,680,000	43,920,000	219,600,000
<i>Other regions</i>	55	14,913,081,182	8,759,703,423	23,672,784,605
United States	39	13,621,491,946	8,163,837,605	21,785,329,551
Canada	1	25,125,000	8,375,000	33,500,000
Liechtenstein	8	235,119,657	40,887,067	276,006,724
San Marino	1	6,869,753	6,092,047	12,961,800
Panama	3	37,988,551	36,544,704	74,533,255
Japan	2	723,159,745	250,967,000	974,126,745
Kuwait	1	263,326,530	253,000,000	516,326,530
<i>Total</i>	251	54,636,908,642	18,191,746,109	72,828,654,751

Figure 7.1.(2). Investments in Joint Ventures for period 31.12.80 to 31.12.84

Region	Number of contracts	Investment in dinars					
		National participation as %		Foreign participation as %		Total	
EEC	26	6,113,793,717	70.0	2,576,454,337	30.0	8,733,950,154	(29.8)
EFTA	13	2,102,906,613	98.9	21,595,100	1.1	2,124,501,752	(25.1)
Others	13	7,379,282,145	58.0	5,329,224,586	41.9	12,708,507,731	(115.9)
<i>Total</i>	52	15,595,982,475	66.2	7,923,274,024	33.8	23,573,255,537	(47.9)

Nota: Figures in brackets represent percentage invoiced in the four year period over previous period 1958-1980.

While no general rule exists, experience has shown that preliminary forms of business collaboration, licensing or technology transfer, establishment of agents, exchanges of goods and products by means of technical co-operation agreements, are all valuable precursors which greatly assist the Western investor in preparing to establish a joint venture agreement with his Yugoslav counterpart. Nevertheless, one does not need to look very far to find exceptions to this procedure, where extremely successful joint venture partnerships have been forged as the first step of a collaboration. Clearly, depending on the nature of the technology, the business interests and so on, this learning curve can take many different forms.

The various organisations at Republic and Federal level must be involved in the decision making process leading to approval for a know how transfer culminating with the Federal Committee for Energy and Industry, which acts as umpire to confirm that the 'game' is being played correctly according to the rules.

7.2. Know-how transfer

7.2.1. Obtaining patent protection and trademark registration

Western companies wishing to obtain a patent in Yugoslavia will normally contact, with the help of their own patent lawyer, a Yugoslav lawyer specialised in this field. There are several specialist legal offices concerned with patents which will contain experts in various fields. In all cases these would be independent and private organisations rather than state run ones.

The Yugoslav patent agent will despatch the application to the Federal Patent Office. Once the application has been formally approved, its details are published in the Patenti Glasnik. Once the period for objections by third parties has elapsed the patent will be registered. From this moment the patent will enjoy legal protection on the basis described below.

The request for patent protection must include the following information:

- name of organisation demanding the patent,
- name of Yugoslav patent agent,
- date of any foreign registrations relating to the invention,
- details of the foreign patent authorities where the invention is already registered,
- specification with drawings, if appropriate,
- certificate of registration,
- other relevant documents.

When the foreign partner and the local organisation establish a joint venture which will employ and exploit a patent certain specific rights are granted over and above the normal ones; these are:

- exclusive rights on the sale of products based on the patent,
- opportunity to extend the initial 7 year patent period for another 7 years.

For trade marks, designs, drawings and prototypes the procedure to be followed remains the same. Documents accompanying the request will differ slightly; they must include:

- specification of the trademark,
- an example or reproduction of the trademark,
- its international classification (Nice convention),
- a list of products covered by the trademark.

It should be emphasised that the Yugoslav enterprise which acquires a trademark must also sign an agreement for the know-how or technology required to produce the object of the trademark, unless, of course, it already possesses such technology.

There is a measure of concern over the requirement that the licensor can only sell his know-how to one Yugoslav purchaser but who then is free, according to the law, to pool his acquired technology with other Yugoslav enterprises. How often this has occurred in practice is debatable, since there is fierce competition among Yugoslav enterprises for any Western product or technology which can provide them with a competitive edge. Further-

more, the contract may include secrecy clauses which will provide a certain protection. In all cases, the advice of a Yugoslav patent lawyer is essential for drawing up specific agreements.

Pharmaceutical trade marks are a special case and are in fact subject to additional 'Law on Drug Distribution' (official Gazette No. 9/81). In article 27, any domestic pharmaceutical company when obtaining approval for marketing any drug, has to attach a statement with supporting documentation which includes 'recommended name of the drug and evidence to prove that its manufacturers are holders of all exclusive rights for the title of the drug, or have exclusive ownership of the drug if no generic title exists...'

Further, article 28 in the same law requires the Yugoslav pharmaceutical company to show the trademark of the product it intends to market within the country.

The implication is that any foreign pharmaceutical company will be required to transfer full trademark ownership rights to their Yugoslav licensees before any new pharmaceutical license contract will be officially registered.

Clearly no company will cede its rights in this way and a compromise has been sought where the foreign company devises and registers a special trademark exclusively for use by the Yugoslav licensee or the Yugoslav licensee devises and registers its own trademark for the product. In most cases the latter procedure is followed so that most licensed pharmaceutical companies in Yugoslavia carry two trademarks, the original one plus a local one. This is not always a satisfactory compromise, since it requires the Yugoslav enterprise to 're-educate' the medical fraternity that this is the same product that they will have seen described in the International Medical Press. Also, any export potential for the Yugoslav company is virtually reduced to zero.

This law is still providing difficulties in the collaboration on pharmaceutical production and marketing. For example if the foreign partner withdraws a product from the Yugoslav market and wishes to substitute an alternative, one his previous agreement with the Yugoslav licensee is no longer valid and he must negotiate a new agreement with these restrictions.

The Lek-Bayer joint-venture, Bayer-Pharma, is facing exactly this difficulty of drug replacement today.

7.2.2. Procedures for registering licensing agreements

The request for approval and registration of a licensing contract must be submitted by the Yugoslav licensee to the FCEI who must rule on the application within 60 days. If it does not respond within this time limit the contract is considered approved. It is however extremely likely that the committee will send back the contract suggesting modifications and it is possible that further modifications will subsequently be required. A delay of one year or more is not exceptional.

In cases where the committee rejects the contract the Yugoslav licensee can appeal to the executive Federal Council within 15 days: there is no appeal from the Council's decision. The demand for approval must include (in five copies) the following:

- (i) an authentic text of the contract in one of the Yugoslav languages or alternatively in a foreign language but accompanied by a certified translation into a Yugoslav language.
- (ii) the 'economic basis' and technical characteristics of the production programme covered by the agreement (that is a feasibility study possibly with a separate market evaluation).
- (iii) one or more statements from the republican or provincial authorities certifying that the project appears to be commercially viable and that the enterprise concerned is in a position to fulfil its side of the contract.
- (iv) a declaration by the Yugoslav Chamber of Economy on the reputation and financial status of the foreign partner.
- (v) a guarantee that the OAL involved will inform the SIZ for foreign trade relations of the republic or province of the payment terms for the licence.
- (vi) a declaration by the Federal Institute of Patents that the rights on the foreign patents

on which the contract is based conform to Yugoslav legislation. For contracts relating to medical goods, pharmaceuticals and agricultural chemicals the approval of the Ministry of Labour, Health and Social Policy or of the Ministry of Agriculture are required.

Naturally, the onus is on the Yugoslav enterprise to obtain these approvals, but it is advisable that the foreign licence holder takes an active interest in this process. By this means he can then react more promptly and in a positive manner in the event of any objections being formulated.

In effect most Western companies report positive experiences from licensing agreements. Risk of competition through exports is not high. In the first place most Yugoslav enterprises prefer to use their licensors' distribution channels for exports. Furthermore their production is generally insufficient to make a significant penetration of other Western markets. Finally the trust between parties is generally sufficient for informal agreements to be arrived at, so preventing competitive problems of this kind.

Furthermore a licensor may be able to exploit the interest that his licensee has in exporting. The latter will generally have a major requirement for foreign exchange to make payments to his licensor and to import raw materials or semi-finished products. In case of foreign exchange problems the licensee may find himself obliged to accept a buyback arrangement. He may prefer to accept foreign exchange gained through his licensee's exports (even if these are using the licensors' distribution channels) rather than being involved in complex and costly operations to solve the problem of his licensee's lack of foreign exchange.

7.3. Long term technical co-operation with exchange of goods

7.3.1. Who can be partners to these agreements?

The law indicates that a contract for long term technical co-operation (LTTC) is concluded with an OAL. However an OAL has to meet certain legal requirements before it can conclude such an agreement.

Thus articles 15 and 16 state that the OAL which concludes the agreement must itself be responsible for production and development programmes set out in the agreement. In addition it must possess the technology, equipment, resources and personnel necessary or be able to obtain these.

The OAL however can carry out the agreement in collaboration with other OAL's on the basis of self management agreements with sub-contractors (article 11). In addition, if there is more than one foreign partner they can be of different nationalities.

The foreign partner for his part must 'participate directly' in the planned production unless his own national legislation prohibits this. Supplies to its Yugoslav partner can be made from a foreign partner which belongs to it.

7.3.2. What should be included in the agreement?

The two partners to the agreement have full freedom to negotiate the contents of the agreement. However our discussions suggest that the more clearly the objectives of the agreement are specified, the more successful is the agreement. In general, precision and care with detail does not damage the spirit of confidence between the partners. On the contrary, the foreign partner generally has an interest in detailing all the aspects of the collaboration. This detailed analysis is useful for the Yugoslav partner and he will generally feel more confident through the greater familiarity he achieves with the specific technology and related questions as the details of the agreement are hammered out. The Yugoslav partner will possibly be less at ease if the agreement leaves a large measure of room for manoeuvre because he may have more difficulty in justifying his actions in front of the relevant Yugoslav authorities. He will prefer to stick to the letter of the agreement because this will be the text that the authorities have approved. It is sensible then to include the maximum of details:

- (a) what technological information will be given; what details of experience will be given;
- (b) what confidential information on manufacturing methods etc.
- (c) precisely what is the product that will be produced. On the other hand it is also sensible to specify exactly what the foreign partner will receive, under what form, qualities and quantities, delivery times etc.

In addition, a clear product specification of the goods to be manufactured by the Yugoslav partner is a form of guarantee against undesirable extensions of the application of the agreement. The case of Gillette is typical: they had ceded technology for a well proven and clearly defined product in such a way that subsequent steps towards the manufacture of another development (from a stainless steel to a double edged blade, and then to a swivelling razor) would be considered as technology to be licensed by subsequent agreements. Some co-operation and technology transfer agreements are extremely detailed and can run to 200 pages or more, especially with respect to the description and specification of the manufacturers, components.

7.3.3. Definition of type and means of co-operation

The points made above apply also to the financial and industrial arrangements for the agreement. The law more or less requires a full statement of these matters, but in addition the preparation and definition of such a statement will improve the climate of confidence between partners. It is of particular importance where a phased development is envisaged. Examples of such phased agreements include that between Daimler Benz and FAS-FADIP. In the first phase it was proposed that the Yugoslav partner would modernise and automate his factory, while the assembly of Daimler Benz heavy vehicles would only start in the second phase.

7.3.4. Procedures for registering the agreement

Once the co-operation agreement is concluded, it has to be submitted to the Federal Committee for Energy and Industry. The procedure to be followed is identical to that for license agreements (see paragraph 7.2.2.). The file that is submitted must include all the elements listed in section 7.2.2. It should be emphasised that once the foreign licensee has drafted a satisfactory agreement with the Yugoslav partner, it is the latter's responsibility to undertake all the steps leading to approval and registration.

A contract can be considered as approved by default if the Federal Committee for Energy and Industry has not responded to a claim for registration within a statutory limit of 60 days. The Committee, once it has examined the application, will either give its approval or return the agreement with some remarks or comments to which the Yugoslav partner will then reply. (article 37 contains 10 reasons for non-approval as described in chapter 6.4.1.). These alterations may or may not require a re-negotiation of the agreement with the foreign partner before they are re-submitted. It is in this stage of the procedure that delays can occur.

7.3.5. Balancing the contributions of the two partners

Co-operation agreements are encouraged by the Yugoslav authorities. There are a number of privileges accorded to those Yugoslav enterprises who conclude these agreements. For example, goods imported under such an agreement are free from all types of import restrictions.

A direct participation agreement which requires significant imports of goods needs to be accompanied by a Contract for Technology Transfer. This of course implies that there will be a significant export of related products to such an extent that imports and exports are balanced.

The exported goods do not necessarily have to come from the OAL which is a party to the contract: it is sufficient that these goods should be related to be imported product. An example is the LTTC between Volkswagen and Unis where at this point the agreement is remarkably like a barter transaction.

7.3.6. Use of Evidence accounts in controlling goods flow

Article 47 of the law provides that foreign exchange acquired from exports achieved through a co-operation agreement can be used, up to as far as is allowed by the Foreign Exchange regulations, to pay for necessary imports as well as for the acquisition of technology necessary for the production of the articles, for instance through a licence agreement.

Payments received by the OAL (as defined in article 48) may use an Evidence Account opened with an authorised bank; this must be specifically stated in the agreement, if not, a specified current account is contractually nominated. These accounts are a necessary part of the co-operation agreement, but do not necessarily involve only flow of funds between the two contractual partners. In the majority of agreements, the partners are able to manage the two way flow of goods so that by the end of each operating year the balance in the evidence account is reduced to zero.

Thus at the end of the operating year the extent of debit or credit in this account should not exceed 40% of the planned value of imported or exported goods for the year in question. In the case where the National Bank of the Republic or Province identifies that the OAL has a chronic surplus or deficit in the account, it will issue an instruction to the OAL to put the account into balance again within 90 days by sales or purchases through the account, though the OAL can claim 'force majeure' (article 49). The objective of this legislation is obviously to maintain a balance of trade within the agreement.

The advantage of the evidence account for the foreign partner is that it provides a separate record of the value of the goods and know-how flow in the agreement without any extraneous transactions which the OAL may be carrying out for other purposes.

7.3.7. Other aspects of technical co-operation agreements

In a sense the co-operation agreement can be considered as an intermediate phase between the licensing contract and the direct participation agreement in the development of business with Yugoslavia. In the license contract there is no true exchange, the licensor communicates his technology or the right to use certain know-how, a trade mark or a prototype and the Yugoslav licensee pays for this right. Yugoslav authorities tend to consider license agreements concluded in isolation and not as part of wider agreements to be a drain on foreign currency reserves. In contrast, the co-operation agreements are seen as true industrial partnerships with the Yugoslav partner. These agreements also contribute to increases in exports and to improvements in productivity.

With the direct investment, in contrast, the foreign partner jointly participates in the risks of the operation with the Yugoslav associates.

In co-production agreements the foreign partner is to a certain extent at arm's length from the Yugoslav enterprise. This is certainly not the case if he is a joint investor in it, when his assets are directly at risk if the operations do not reach their targets.

In many cases this arm's length arrangement suits the foreign partner very well. His risks are low and clearly limited. He has the right to send technical staff to the Yugoslav factory for trouble shooting or spot checks on product quality. If the Yugoslav partner fails to reach the output or quality agreed, then all the foreign partner has to do is to reduce his contribution until the agreed targets are reached.

7.4. Joint venture investments involving direct participation by foreign partners

7.4.1. What is the Yugoslavian perception of a joint venture?

One of the most interesting forms of long term technical co-operation for the West European businessman in Yugoslavia is by joint venture. The two partners, Yugoslav and Western, together invest capital in a single operation. However it must be added that the Yugoslav notion of 'social property' means that there are a number of differences between the Yugoslav concept of a joint venture and the normal Western notion.

For a start the whole idea of investment is somewhat different. In Western countries the investor continues to be the owner of a direct interest in the business in which funds have been placed throughout the life of the operation. In Yugoslavia this is not the case: social ownership of property and the administration of that property by the workers on behalf of the community means that the foreign investor cannot claim a right to property of any kind in the joint venture. What the investor does is to put his resources at the disposal of the enterprise. Naturally he will be remunerated and at the end of the joint venture agreement he will be able to take possession again of his investment.

During the course of the contract he will be able to influence the management of the business and he may even have the right to terminate the agreement before its expiry date. But he will never be even a part-owner of the business in which he has invested.

We now need to consider what are the practical consequences for the Western investor of this approach. In effect the difference, though it appears a fundamental one in terms of ideology, is not all that great in practical terms. The Yugoslav legislation seems to have achieved a neat compromise, without abandoning the Yugoslav concept of socially owned property, which both protects the legitimate interest and limits the liabilities of the foreign investor and is indeed able to make Yugoslavia an attractive home for investment funds.

A further consequence of the Yugoslavian concept of social property is that the foreign investment, whether made in a new enterprise or in an existing one, does not alter the ownership of the enterprise which remains entirely Yugoslav. In the case where a new enterprise is formed, the foreign investor is not permitted to create a new enterprise using only foreign capital even when this forms the larger share of the total investment. The Yugoslav partner is obliged, therefore, first of all to create a BOAL and to invest in it both its own capital and that brought in by the foreign partner. This point is discussed in more detail at 7.5.

7.4.2. How to establish the preliminary contacts between potential partners

It is more than likely that the Western investor who wishes to undertake a joint venture in Yugoslavia will wish to study at some length the local economy, its human and natural resources, financial status etc. He is also likely to wish either to be put into contact with possible partners of good status or to obtain information on possible partners with whom he has already made contact. An equally important question which the foreign investor must consider at this stage is the siting of the venture and the choice of the republic in which the venture will be carried out. As has been seen in section 4.2. very considerable regional differences exist between republics so this question is one of vital importance for the future success of the venture.

On the Yugoslav side a whole range of services is available for the foreign investor, both in terms of information and of making contacts. In the first place, there is a branch of the YCE represented in each capital of the EEC (see Appendix 6 for addresses). The particular objective of this organisation is to encourage and promote long term co-operation, joint venture agreements and the exchange of scientific and technological know-how with the countries where they are established (see section 3.4.2. for further details on the YCE). They will make every effort to find suitable prospective partners, and will generally assist the potential investor to plan his initial campaign of action in Yugoslavia.

Another valuable point of contact is the IICY, as described in section 5.5.

7.4.3. The choice of a potential Yugoslav partner

As we have described earlier (see chapter 2) there are three types of OAL's: these are the BOAL, the WO and the COAL. These are not different forms of enterprise (in the way that in Western Europe there are different company forms), rather these are different levels of organisation. The BOAL is the basic entity, the WO will include a number of BOALs and at an even higher level the COAL can include a number of different WOs and BOALs.

As an example of the last type, the Rade Koncar Group in Zagreb, which produces a range

of electrical products from locomotives to coffee grinders, is a COAL. It includes 11 WOs which between them have 48 BOALs.

If a Western investor, a major manufacturer for instance of domestic electrical equipment, were to be interested in an agreement with this group, he would need to ask himself the question: at which level do I negotiate and which enterprise is the one in which the investment should be made?

There are no fixed rules in this matter; the answer will depend on circumstances. If there is a major investment at stake it is likely that the negotiation will be with the COAL as there is a degree of centralisation of major policy decisions within these large groups. Thus to some extent the choice of negotiating partner will depend upon the scale of the investment. In establishing the production of the Golf Car in Yugoslavia, Volkswagen entered into negotiation with the large concern UNIS which is a COAL. For smaller investments, a WO or a BOAL may be chosen.

If the negotiation is with a WO or a BOAL, the management with whom you are negotiating is obliged to be in possession of a mandate for negotiation. This mandate must have been incorporated into the self management agreement, which constitutes the basis of the various BOALs belonging to the group with which you are negotiating. Thus in the case of Rade Koncar, the self management agreements with the workers in the 48 BOALs (which form a part of Rade Koncar) must contain provisions which allow negotiations of this type to be conducted. In other words, the workers need to have ceded to their COAL the right to negotiate on their behalf.

It is on the other hand important to note that the OALs will sometimes have restrictions on their activities and any agreements they make will need to reflect these restrictions. For example, some OALs are not permitted to sell while others are limited to the production of particular articles or particular ranges of articles. This is apart, of course, from any problems arising from the fact that the negotiating organisation may not have the physical means of meeting the objectives of the agreement.

Nonetheless, the Western investor must remember that the person he has in front of him will essentially be a businessman and manager, not a state employee.

7.4.4. How is a joint venture agreement drawn up?

The preliminary points of contact, identification of both investment opportunities and potential partners, mutual expressions of joint interest can now be assumed to have been completed. This chapter will be concerned with the various steps which both partners must follow in order to successfully negotiate an agreement, and obtain approval for the joint venture from the FCEI, who, on approval, will then register it.

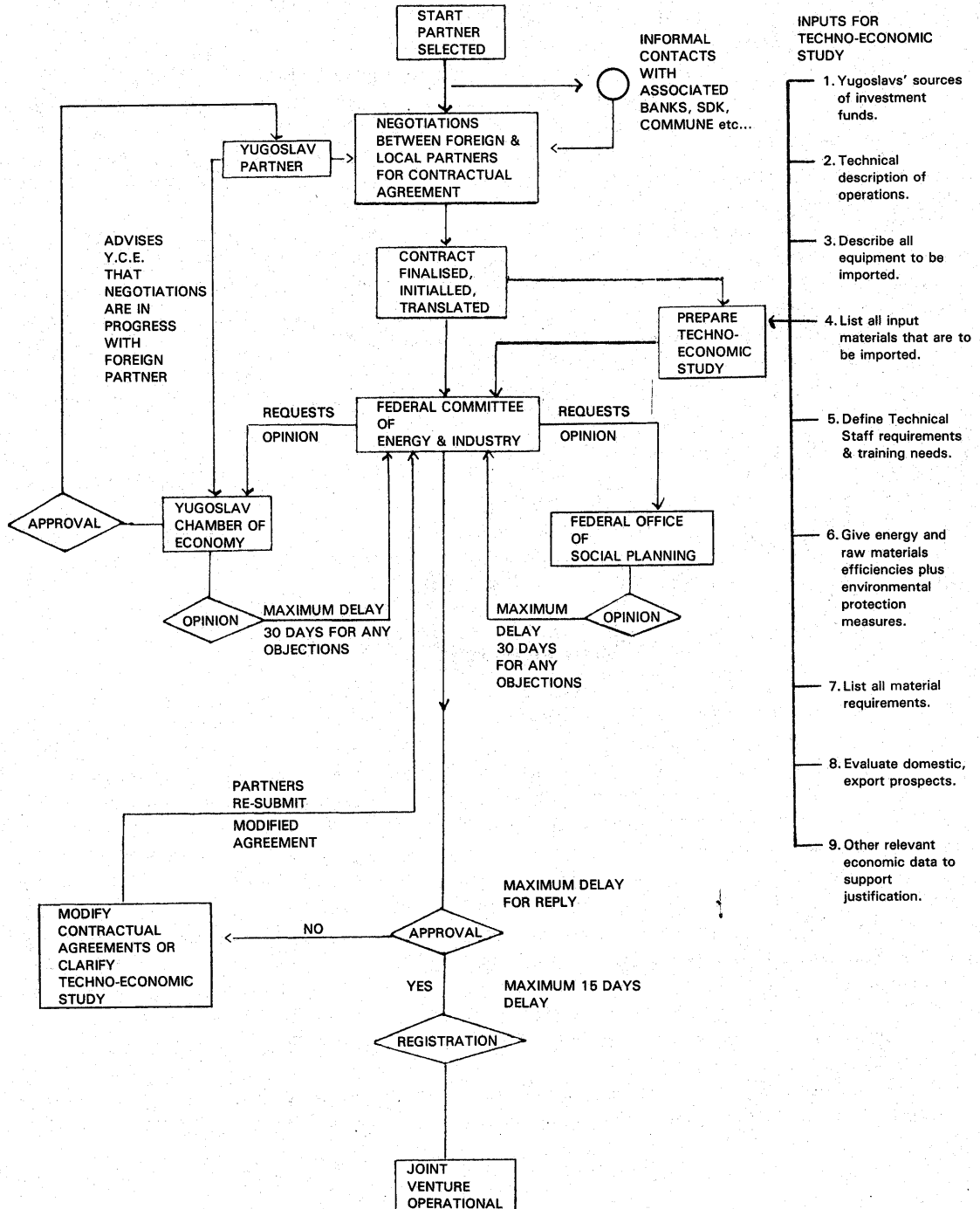
In line with the decentralised nature of Yugoslav society the point of departure for the foreign partner will be the BOAL. Whilst the joint venture law describes quite clearly the various outside bodies who need to be consulted prior to submitting the proposal for approval by the FCEI, it must be understood that it is the latter's responsibility to undertake to organise and obtain the necessary 'opinions', as they are termed. It must be emphasised that no state or federal authority can interfere with the contractual relations set up between the foreign investor and his local partner, once approval for the joint venture is given. The sole exception to this concerns the level of taxes and legal deductions authorised from the profits of any such operation.

The route to establishment of a joint venture and its approval is shown schematically in figure 7.4.4. and essentially the operation falls into three fairly distinct phases. These are:

Phase 1

Preliminary meetings and negotiations between the 2 partners leading to an agreement to undertake a joint venture; this is at this stage an internal document for the use of the partners. An initial version of a draft contract can also be drawn up at this stage, but in most cases it cannot reach its final form until after phase 2.

Figure 7.4.4. Decision path for approval and registration of long-term co-operation agreements



Phase II

It is now the responsibility of the Yugoslav enterprise to prepare the technical and economic feasibility study. According to article 48 this must contain the following information and details:

- sources of the assets that the BOAL is going to invest in the joint venture,
- a description of the technology to be employed for the manufacture of the products of the joint venture,
- details concerning the equipment (kind, quantity, value) that will be imported for the construction and operation of the plant or facility and which will be forming part of the assets of the joint venture,
- details of any raw and intermediate materials (specification, amount value) that need to be imported during the operation of the joint venture.
- list of the qualified staff required to run the joint venture with details of any training programmes that may be needed for them to reach the required performance for satisfactory operations,
- information on local energy and raw materials which will be required together with statements indicating the environmental protection that may be necessary,
- statements concerning the basic raw material requirements for any products to be consumed by the joint venture together with assurances that the use of these raw materials are in line with the Yugoslav development programme,
- export and home market projections for the joint venture products,
- other details required for economically justifying the use of the resources by the BOAL.

Clearly the foreign partner will assist in the preparing of certain inputs to this document and his close collaboration will be essential to arrive at the production norms and projected revenues expected from the joint venture.

The stage is now reached where a formal contract can be drawn up. This will be initiated by the parties concerned and parallel texts will be prepared in one of the national languages of Yugoslavia, with a copy in the foreign partner's language (*). During this period the local partner is requested to notify the Yugoslav Chamber of Economy of its intention to enter into this contract (article 46), in sufficient time for the YCE to notify the local partner that problems could arise from collaboration with the foreign partner.

Phase III

After the contract and feasibility study have been submitted, the approval and registration steps which follow are the sole responsibility of the FCEI. The role of the FCEI in this case is first to ensure that the agreement made between the foreign and local partners is legally sound and does not contravene the obligations contained in the law (article 49). Secondly it must ensure that the venture has the necessary federal approval, in terms of both the defence and security interests of the country (article 50). Thirdly, it can also permit any waivers to the law which are deemed to be special cases and are requested by the partners. At the same time the FCEI can decide to obtain further opinions concerning the joint venture from federal, republican and provincial authorities, as well as from the Yugoslav Chamber of Economy. These groups are given 30 days to submit a reply to the FCEI: if it does not receive any response by the end of this period, it is assumed their views are positive. Particular aspects of these three phases will now be examined to illustrate how a proposed venture may navigate successfully these rather complicated channels.

7.4.5. Negotiations leading to the agreement

For the foreign partner it is no exaggeration to say that this is probably the most critically important exercise in the whole venture. It will be time consuming and will test the goodwill of the 2 partners to the proposed venture. Even a summary reading of the law indicates that many of the vital issues affecting the satisfactory performance of the venture must

(*) These languages are: Serbo-Croat, Croato-Serbian, Slovene, Macedonian.

be agreed beforehand between the partners and spelled out in the agreement. Those special features that it is advisable to include in an agreement will not be considered here since this topic has been covered at length in the various sections devoted both to the contract for long term co-operation agreements and to the management and financial aspects.

It is necessary, however, to emphasise here that for joint ventures there are no standard contracts; each agreement must be very specifically drafted to cover all aspects of the particular joint venture in question. If one compares the various joint venture agreements that have been concluded since the earliest joint venture law, it will be seen that there is a definite trend for them to have become considerably more detailed and lengthy.

Experience gained by both foreign and local partners is that it is much wiser to confront potential problems or conflicts of interest around the table during the preliminary negotiation of the agreement. If the obligations and rights of each party are spelt out clearly before the venture is operational it is much less likely that damaging conflicts of interest will arise at a later stage. This is of particular importance in the Yugoslav context, since the relevant legislation concerning business and financial operations is relatively complex. Frequently the Yugoslav partner is himself not familiar with every legal twist and turn. However, once the partners arrive at an interpretation of their requirements in the agreement, which is approved at the Federal level as being in conformity with the joint venture law, this will take precedence in cases of dubious or difficult technical interpretation, over other potentially conflicting legislation.

Another vital aspect of the negotiating stage is a need for both parties to take the opinion of third parties. For example, the matter of hard currency supply and transfer abroad of convertible funds will be a critical aspect of any foreign investment. This requires contacts to be established with the Associated or Basic Bank who will be handling the convertible currency accounts and overseas money transfers of the venture. It will then be possible for *both* partners to confirm whether or not their funding and repatriation schemes are workable. The bank can provide at this stage valuable advice enabling an acceptable and workable scheme to be defined in the agreement. Once a bank has been party to this scheme it is then much less likely for the venture to run into unforeseen problems regarding hard currency availability and transfer.

Aside from the banking sector, there are many other informal contacts the foreign partner can make at this stage. The purpose of these contacts will be to familiarise himself with those aspects of the business operations of the venture in Yugoslavia which can make or break the investment. These are 3 reasons why these contacts are vital at this stage:

- the foreign partner must be familiar with all aspects of the Yugoslav operations in order to be able to negotiate intelligently,
- it serves as an opportunity to obtain local data and information required for the techno-economic study which is assembled early in Phase II,
- once the agreement is initialled it becomes the Yugoslav partner's responsibility to interface with all the approving groups. Whilst approval is being sought in Phase III by the local partner, the foreign partner may seek clarification but is not expected to plead his case.

The degree of familiarity the foreign partner already has with Yugoslav practices will determine his need for expert assistance. This assistance can take one or two forms, either to engage a lawyer well practised in technical co-operation and joint venture legislation or to employ the services of the IICY. A description of the IICY is given in section 5.5. and it serves to provide a newcomer to Yugoslavia with across the board advice legal, financial, technical etc. on a fee paying basis. In contrast, the use of Yugoslav legal advice from a local lawyer will primarily assist in 3 ways. First, by ensuring that the agreement is legally correct in terms of the foreign partner's requirements, secondly by providing a counterweight to the legal advisers of the local partner, and thirdly, and possibly of greatest value, by monitoring and reporting to the foreign partner on the progress of the agreement through its final stages. Once the submission has reached the FCEI and any outstanding matters need to be discussed, it is normal practice for only the Yugoslav partner to be invited to

meet FCEI representatives. At this stage, it is considered that the foreign partner may rely on his Yugoslav partner to transmit details of the discussion. However the foreign partner's legal representative may also be invited to such discussions, thus providing an independent assessment of their outcome.

In the negotiations each party is free to employ his own procedures. Clearly the question of language and use of translation services must be resolved at the start. It will also be important for the foreign investor to be very clear regarding the position and responsibilities of his opposite numbers. For example, a minimum requirement is to determine when the chief executive's 4 year period of office falls due for re-election by the Worker's Council. Immediately the partners have initialled the agreement there is the requirement of issue, within 30 days, of a techno-economic study describing the venture, more commonly known in the West as a business plan.

It is impossible to give any precise time limit on the duration of these negotiations. A foreign investor who already knows Yugoslav and has had dealings with the Yugoslav enterprise could hopefully see an agreement initialled after 6 months negotiations. On a first time basis, this will be longer and an 18 months period might not be excessive and in some instances negotiations have dragged on for as long as 4 years before the partners reached final agreement.

It cannot be too strongly emphasised that a good agreement serving the specific needs of both local *and* foreign partners is the cornerstone of a successful investment. Thus it is better to pay sufficient attention to details at this stage, at the expense of prolonging negotiations, rather than attempting to work to a rigid timetable and concluding a hasty and poorly drafted agreement.

7.4.6. Obtaining approval

With an initialled agreement and the business plan the local partner is now in a position to submit his dossier to the FCEI on a totally confidential basis. It must contain 5 copies of the

- joint venture contract,
- initialled agreements,
- techno-economic study.

The role of the FCEI in proceeding to give approval is twofold: first it must satisfy itself that (article 49) the agreement does not contravene the joint venture law and other laws relating to self managing enterprises exchange regulations etc... Additionally it is required to seek opinions from other federal organisations (*) particularly concerning any matters relating to defence and national security. The FCEI has the statutory obligation to make a decision on the proposal within a 60 day period. Otherwise, it must refer it back to the Yugoslav partner before this period expires on any questions regarding the agreement. If these referrals by the FCEI are made towards the end of the 60 day period this can cause some delays in receiving approval for the venture.

What happens when the Yugoslav partner submits the file with the joint venture agreement for approval? It is likely that the FCEI will present in writing its comments and suggestions. At this point the two parties may need to renegotiate those parts of the agreements which have been referred to. For this reason, a considerable number of agreements include a clause stating 'in case the Federal Committee for Energy and Industry refuses to register this agreement the WO... and the company... will analyse together the reasons for this refusal. Together they will modify the content of the agreement in order to conform to the requirements of the Federal Committee and will present it again for approval and registration'.

(*) In sections 3 and 4 of this article the FCEI is required to confirm that the agreement is not contrary to:

- the social plan of the SFRY,
- the established strategy of technological development in the SFRY.

The first question is addressed to the Federal Office of Social Planning, and the second falls within the authority of the YCE.

Subsequently the Yugoslav partner will re-submit to the Federal Committee a modified agreement with the foreign investor. If the changes are in order the FCEI will then agree to approve and then proceed to register the contract, which will normally take place without too many difficulties. An absolute refusal will normally only be the result of a problem concerning national defence of internal security: there is no appeal against any final refusal. Following approval, the final duty of the FCEI is to enter the joint venture on its register (article 51) giving details of the parties to the venture, the amount invested by each party and the date when the agreement was made. This registration must be completed within 15 days of giving approval. It is important to understand that the act of registration only establishes the BOAL in which the joint venture is vested as a legal entity. This does not constitute it. The act of constitution of the BOAL which is designated to operate the joint venture has then to be carried out in the region where it must be formally constituted as an effective operational unit. It is the responsibility of the FCEI to notify the authorities of the republic or autonomous region concerned that the registration has been made.

It is important for both partners to co-ordinate all guarantees, loans and other banking services which can only become effective once the FCEI has formally registered the joint venture. However, it should be noted that the agreement becomes legal from the date of registration. It is not considered to be effective from the date on which it was originally agreed by the partners and prior to constitution, the BOAL created to operate the joint venture is termed a 'BOAL in formation'. This means that the direction of a venture will only commence from the date of registration.

The Federal Committee for Energy and Industry can refuse to approve a joint venture agreement if it is not clearly indicated that the necessary financial resources to realise objectives of the agreement are available. In particular, it must be made clear that any necessary lines of credits are assured. In addition, it is illegal to make use of credits when the agreement does not foresee the establishment of a tangible investment; in this case, too, the Committee will refuse consent.

Finally, when both partners agree to modify the joint venture agreement for purposes of increasing the existing investment or augmenting the capital no further approval is required. The partners must, however, notify the FCEI who has to register these additions to the original contract.

It can occur that for one reason or another the administration itself has caused delays in studying the dossier: in this case it will certify that the delay was the Committee's fault. However, the Committee is legally required to give approval within the 60 days laid down so long as the application is completely in order. This obviously is the key: it is vital that the application submitted is completely and correctly prepared. There are cases where approval has been subject to delays: naturally enough the contracting parties involved have tended to say that this was not their fault. However, we were informed that for every case where there were extreme delays, large numbers of other applications are approved and registered in the correct period. It should be added that the actual preparation of the agreement has in some cases taken extremely long periods: the joint venture Travenol/Zdravilje was in negotiation for two years but registration was accorded by the Committee within one month in January 1981.

Now that streamlined approval procedures have been adopted under the latest version of the joint venture law it is evident that the Yugoslav authorities are very anxious to minimise such delays. As this new procedure has only very recently been introduced it is too soon to assess how well it works in practice.

7.4.7. Critical path analysis for setting up a joint venture

The critical path is fairly straightforward since all the various steps are largely sequential (figure 7.4.4.).

If the legally proscribed time limit is taken into account, it is theoretically possible to pass from a translated version of the agreement to registration in a maximum of 75 days. This does not take into account delays if certain aspects are referred back to the investors for

clarification or correction. In practice, it has been reported that joint ventures have been set up, approved and registered all in 6 months, but taking account of all the matters which need co-ordinating a longer period is more realistic.

One aspect of the critical path analysis is related to the additional details of the agreement such as establishing bank guarantees, loans etc. These can be progressed in parallel with the formal approval process so that on obtaining formal establishment the BOAL is ready to become operational.

It is recommended that the foreign partner remains in close contact throughout the approval and registration period to assist in re-drafting any clauses in the agreement which are demanded.

In certain cases, where the newly formed BOAL is using equipment or facilities already in place, it can begin start up operations under the umbrella of an existing BOAL immediately on receiving approval from the FCEI. In this way a certain amount of time is gained by commencing operation while the steps taken to register and establish the new BOAL are underway. This short cut can, however, backfire, if any financing is required during the start up stage, as the banks will not be ready to release any credit until the BOAL is formally constituted.

7.5. Case histories of co-operation agreements and joint ventures

7.5.1. BEKO/Lee Cooper

This collaboration involves the manufacture, in BEKO's ready made clothing factory, of jeans and leisure wear following the original designs of Lee Cooper and bearing their labels. This is organised under a royalty agreement in which Lee Cooper is paid in hard currency obtained from BEKO's export earnings. As well, BEKO operate a chain of 150 clothing stores throughout the country so they also control the marketing of these products.

Lee Cooper is the largest manufacturer of jeans in the European Community, with an annual turnover of around £ 95 million. They are currently licensing their products in 15 countries worldwide and Yugoslavia was one of the first countries which signed a licensing agreement with Lee Cooper over 10 years ago. This agreement has already been renewed once and is expected to be renewed for a further 5 year period in 1986.

The co-operation has been a very satisfactory one for both parties. For Lee Cooper, they consider that the success of their agreement has been entirely due to finding the right partner with excellent management ability. From the Yugoslav side, BEKO find they have virtually the total jeans market in the country and their pre-eminence has made it very difficult for any other jeans competitor to become established.

The contract covering the license agreement was a standard one which Lee Cooper applies in other countries. BEKO handled all the approach procedures with Yugoslav authorities, which took approximately 1 year to complete. In Lee Cooper's experience this was not excessive when compared with other countries in which it had sold licenses. In the view of Lee Cooper, negotiating in Yugoslavia directly with the enterprise which will hold the licence is infinitely preferable to the Eastern European situation where tight state control makes the negotiations much more lengthy and tedious. In the case of one Eastern European country, in comparison with Yugoslavia, the agreement took 3 years to negotiate.

There are certain features of this agreement with BEKO which are useful to highlight:

- approval from the National Bank to BEKO to release hard currency for royalty payments was given after considerable discussion: since the output of jeans was going to the domestic market, no exports are envisaged in the agreement.
- royalty payments are made on a 6-monthly basis calculated on the dinar value of the clothing ex factory.
- the transfer of royalty fees is calculated on the exchange rate at transfer, but the effect of dinar devaluation has largely been counteracted by price inflation.

- quality control was given considerable attention at the start of the agreement, but now only routine checks are made during the 6-monthly visit of the licensors to BEKO.
- the first renewal of the agreement coincided with the height of the Yugoslav economic crisis; BEKO advised Lee Cooper that to obtain rapid approval it was best to submit the original agreement with the minimum of changes: as a result the new agreement was approved without any delays.

In conclusion, a very successful and long standing licensing agreement in which both partners appreciate each others efforts and contribution. In the words of the licensor, the level of management input from the Yugoslav equals the best they have seen in Western Europe. This has clearly been the key factor in making such a successful collaboration.

7.5.2. Rank Xerox

Trading experience in Yugoslavia goes back over 15 years; initially it mainly involved counter trade, exchanging copiers for glassware, tractors and so on. While this operated satisfactorily, it could not be considered by either side as the ideal means for establishing long term relations.

Subsequently Rank Xerox entered into 2 technical co-operation agreements, one involving exchange of components for kits of complete copiers, the other and more recent one manufacturing toners and powders.

The negotiation with the first partner in Serbia was very long and drawn out; it finally took 3 years to obtain federal approval. Two problems occurred in reaching an agreement suitable for both partners, first the listing, description and equipment prices of all the parts and equipment to be covered by the agreement and secondly the requirement for an internal guarantee that the Yugoslav partner would not market the products in other territories. Once the collaboration was established, the question of meeting acceptable quality standards had to be resolved. The second agreement for toners and powder was with a Slovenian enterprise; the agreement was negotiated and approved in 18 months. Clearly, the experience gained from the first project greatly assisted Rank Xerox in reaching approval on this one more quickly.

As a result of this quite extensive experience of working in Yugoslavia, Rank Xerox have been able to draw the following conclusions. These are that:

- the prime reasons for having a production agreement is to be able to establish a position in the domestic market; this was growing rapidly in the 70's, has fallen back since then but is seen to have further promise in the future.
- the choice of partner and the choice of site are both crucial for the success of the collaboration; the partner needs to have technical competence and influence at republic and federal levels.
- Rank Xerox are very conscious of the weakness of marketing skills in Yugoslavia for both domestic and export sales; for example Rank Xerox had to change agencies when it found it difficult to penetrate all the individual republic markets.
- persistence in developing a presence in Yugoslavia does provide dividends, for example by securing the prestige contract to supply copiers to the Sarajevo Winter Olympics; this would have been impossible without a prior presence in Yugoslavia.

7.5.3. UNIS/Olivetti

Negotiations were begun with UNIS over 4 years ago to establish a co-operation agreement. UNIS were anxious for Olivetti to participate in a joint venture agreement, but it was decided at corporate level not to make any investment in Yugoslavia but rather follow a policy of product exchange based on a technical co-operation agreement.

The agreement was drawn up that Olivetti could deliver CKD (complete knocked down) kits for electronic office equipment in exchange for a certain number of portable typewriters manufactured by UNIS to Olivetti design and specifications. The UNIS output for export would be handled through Olivetti's worldwide sales organisation while UNIS would be responsible for all domestic sales.

After these lengthy negotiations, partly due to Olivetti's refusal to invest, the Federal Committee took 6 months to approve the agreement, returning the document to UNIS several times for modification. As a result, Olivetti which had planned to receive its first consignment of typewriters in time for the peak sales season of 1981, in fact, received none.

The first consignment finally reached Olivetti in 1983, and represented 40% of an already reduced annual production target. Conservatively, Olivetti again downgraded the targets for 1984 to approximately half the quantity contracted for in 1982. UNIS are now meeting these targets and the machines are of good quality.

In spite of this slow start, approximately 2 years later than originally estimated by UNIS, Olivetti are pleased with the collaboration since they are now confident that UNIS will be able to meet future realistic production targets and Olivetti can thus see secure deliveries of their products into Yugoslavia.

Olivetti are most satisfied with the agreement, and are particularly relieved that they did not go into a joint venture deal. From their point of view, it makes more sense that their Yugoslav partner is left to sort out all the local difficulties of raw materials and component supplies (paint etc.) which the foreign partner is powerless to rectify. Whilst Olivetti might have slipped a little in their sales programme, from a corporate point of view this is a cheaper price to pay than having idle capital in Yugoslavia with no return to show for it.

7.5.4. *Elektronska Industrija/Siemens*

Siemens (of Munich) has concluded a considerable number of technical co-operation contracts with Yugoslav enterprises. They have said they are not particularly interested in direct participation agreements and have given precise reasons for this. For Siemens, Yugoslavia is only one of a number of other countries where Siemens requires a presence and its managements have weighed the Yugoslav 'Candidature' against other projects which appear more interesting. In addition, Siemens is working with products going through rapid technical changes and where a considerable degree of technological sophistication is required. It is felt that a Yugoslav partner would need to have reached the same degree of technological sophistication if a direct participation agreement were to be concluded.

Siemens has concluded LTTC agreements with EI (Elektronska Industrija) at Nis (Serbia), a specialist in the manufacture of X-ray equipment among many other things.

This is an important agreement for the manufacture of medical equipment components with arrangements for the modules produced to evolve with advances in current technology. EI assemble complete equipment sets using parts provided by Siemens or parts which have been developed in collaboration with Siemens. Siemens ensure control quality with frequent visits by engineers and technicians; this scheme has allowed the two partners to penetrate a number of third world markets.

Siemens has concluded a second LTTC agreement with Jugodent at Novi Sad (Vojvodina) making dental equipment. A third agreement is operational with Rade Koncar of Zagreb for switching equipment; this agreement has again allowed the partners to penetrate third world markets.

All these agreements (at one moment Siemens had more than 40) were concluded prior to the 1978 law, and no problems were encountered during this period. Subsequently, however, when the duration of these contracts needed to be extended and the Federal Committee wished to ensure that they conformed to the new legislation, the partners had a number of difficulties. One particular problem is in reaching an equilibrium on the evidence account during each annual period. In effect, the Yugoslav partner was frequently found to be late on his product delivery due to a lack of foreign exchange, raw materials or components.

As the law requires an obligatory re-establishment of the balance within 90 days by forced sales, Siemens found it was obligated to accept unwanted products. The German firm then had to employ a barter trade specialist to market these unwanted Yugoslav products. This

is invariably a slow and difficult process. This barter trade was undertaken by Kombik of Frankfurt, a subsidiary of the Yugoslav General Export Company. Siemens is now very satisfied with the agreements between Yugoslav partners with whom it has been working for a considerable time. In particular they noted that their partners react very positively in solving any administrative or other problems which arise from time to time with the Yugoslav authorities.

7.5.5. UNIS/Volkswagen

UNIS is an OAL which groups together 58 individual BOALs. It employs more than 37,000 people and its turnover is around 200 million dollars. UNIS is the eighth largest Yugoslav company. UNIS has been collaborating with Volkswagen since 1967, at that time UNIS simply imported vehicles. Later a long term cooperation agreement was concluded and subsequently in 1972 a joint venture. In this joint venture Volkswagen held 49% and UNIS 51% in a BOAL named TAS (Tvornica Automobila Sarajevo).

TAS has a considerable number of co-operation agreements with Volkswagen. For example TAS manufactures for Volkswagen a wide range of components including exhausts for GOLF, PASSAT and AUDI models, rear axles and service parts. In addition TAS assembles vehicles such as the VW CADDY, supplied in kit form adding locally manufactured parts. Some plastic parts are made by a BOAL which is part of UNIS and which is a boat manufacturer. TAS has other agreements, for example with SAVA, a Yugoslav joint venture of SEMPERIT in Austria. SAVA supplies tires to TAS: the foreign exchange from this however is retained by TAS according to the agreement made.

These various transactions enable TAS to earn a considerable amount of foreign exchange as products are exported to a number of different Western European countries. This allows it to import parts and accessories needed for the internal market; in 1983 TAS imported kits for 30,000 vehicles: 10,000 of these were exported and 20,000 sold on the home market.

This co-operation has been a considerable success for both partners and is now being extended to cover the manufacture of the new GOLF model. As preparation for this, an investment of 100 million DM in TAS between 1985 and 1989 has been agreed. TAS will contribute 40 million DM which will be spent on purchases within Yugoslavia. The remaining 60 million DM will be invested by the two partners in the proportion 51-49. This would be mainly as investments abroad paid in hard currency.

A part of this investment will be to modernise the production equipment of the TAS factory which will increase the capacity for TAS to supply components to Volkswagen in Germany. Thanks to this investment TAS will be able to earn further foreign exchange.

7.5.6. FAP-FAMOS/Daimler Benz

FAP-FAMOS has four factories making cars. These four are all BOALs with similar activities: Daimler Benz has invested directly in the OAL which was specifically constituted for the joint venture operations.

The first agreement dates from 1970. The joint venture agreement at that stage included the following items:

- (i) a licence for the production of medium weight vehicles (12 tonnes) and buses,
- (ii) an agreement by which the German partner invested 28 million DM (18 million in capital and 10 in license fees); a third German partner was also brought in,
- (iii) a cooperation agreement for reciprocal accessories supply,
- (iv) a credit agreement allowing the Yugoslav partner to import products to enable the agreement to start,
- (v) an agreement whereby FAP-FAMOS could make use of the Daimler-Benz trademark.

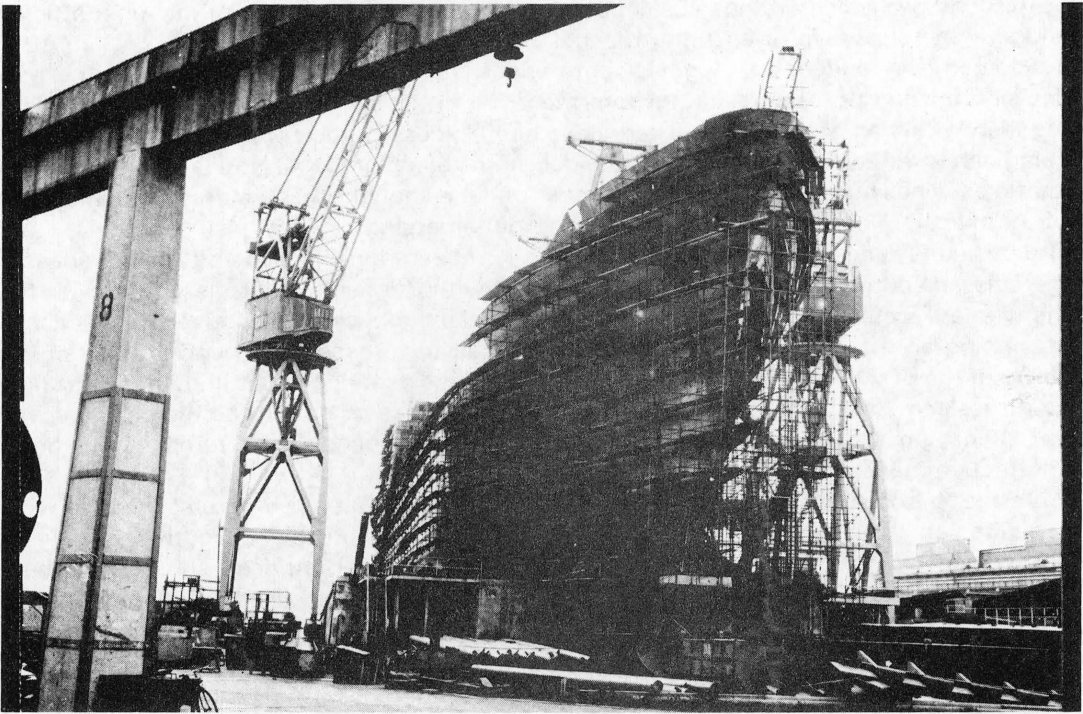
There were thus a considerable number of separate agreements making up the total co-operation: the agreements together covered a considerable number of aspects including:

- objectives and territories covered
- technical developments

- products supplied
- quality control
- assistance to be provided and royalties
- payment methods
- client service and after sales service
- patent and other protection
- secrecy, competition
- length and limitations
- termination of the agreement and its legal consequences, arbitration
- language for agreement
- law to be applied
- possible modifications
- expenses
- dating
- possible new partners.

Both partners appear highly satisfied with their collaboration. At the outset DAIMLER-BENZ had made it clear that its objective was not to create major export markets for its Yugoslav partner and negotiations have always proceeded in this light.





CHAPTER 8

MANAGEMENT ASPECTS OF JOINT VENTURES

8.1. The management of the joint venture enterprise

Day to day management of the enterprise into which the foreign investor has put his money is carried out by either the senior individual manager or the management board of the BOAL, not by the workers' council nor by the business board. The management board is appointed by the workers' assembly through the workers' council. The foreign investor will therefore have some concern as to whether his interests are being properly looked after. Investors experience indicates that few problems arise.

Although Yugoslavian law specifies that the Managing Director must be Yugoslavian, the foreign partners may negotiate in their agreement to have the right to place in other key posts of the BOAL individuals they have selected. Thus the financial director of TAS (a joint venture between UNIS and Volkswagen) is a German as is the head of quality control. The Deputy Managing Director of FAP-FAMOS (a joint venture in which Daimler Benz has an interest) is also German and is responsible for supervising the development of production arrangements. Daimler Benz has set into operation a system with one of its Yugoslav partners whereby the German quality controller has absolute right to refuse to accept products on the basis of quality: his decision is final and without appeal.

Hoechst, Atlas Copco, Dunlop, Boots, ICI and other Western investors also have members of their own staff placed in positions in the Yugoslav enterprises which they consider to be important for the safeguarding of their own interests. The Yugoslav partner will not generally oppose this and indeed in certain cases will specifically request an arrangement

of this kind particularly if technical input is involved, since this is one of the most efficient and satisfactory ways of ensuring technology transfer.

In addition, the tendency in Yugoslav enterprises is to try and short circuit the rather long decision making process resulting from the different levels of consultation and approval required within an organisation. There have been excesses and some cases of enterprises being paralysed by an over-cumbersome decision making process. Notice of this source of inefficiency has been taken by the local press and it is thought that a more pragmatic vision of the management role in an enterprise is now emerging.

The business success of a BOAL is very clearly reflected in the skill and effectiveness of the chief executive. In discussing this question with Yugoslav enterprises it is clear that the workers' council attach great importance in selecting a chief executive who is capable of running an effective organisation since their salary prospects depend entirely on the ability of the BOAL to generate adequate income. Thus experience has shown that workers do not select a manager who will provide them with a 'soft option' as they run a severe risk of having their future earning capacities being reduced, if he turns out to be an 'ineffective manager'.

From the Yugoslav manager's viewpoint, he often finds that the workers' council, when consulted on a decision making situation, will refer back to the chief executive to make the final choice as, in their words, 'he knows what's best for the enterprise'. Thus the emphasis is much more in a Yugoslav enterprise on worker participation and consultation rather than workers attempting to pre-empt management decisions to suit their own ends rather than those of the enterprise.

In this context, it is interesting to note that up until now Yugoslavia has established no management school or management studies departments in the university or higher education system. It would appear that such a development could be of immense benefit to Yugoslav industry, since the training a Yugoslav manager requires is clearly rather specialised, to enable him to use effectively the self-management system, which has demonstrated certain underlying strengths for a modern industrial society.

8.1.1. The Business Board

The underlying principle of self management in Yugoslav enterprises is 'decision making by mutual consent', with the foreign partner and the selected representatives of BOAL forming a joint management body or as it is more commonly referred to 'a business board'. The law requires the business board to be set up within and wholly representing the BOAL which is the vehicle of the joint venture (article 15, 16 and 17). This body considers and makes decisions by mutual agreement and on equal terms, irrespective of the number of representatives of each party on the following matters:

- organising production, sales procurement of equipment, materials and essential supplies,
- means to increase productivity,
- raw materials and energy inputs,
- resource requirements for maintenance purposes,
- investments to improve and expand both facilities and production capacities,
- replacement of fixed assets,
- capital borrowings which will be charged to the joint venture income,
- fixing the standards, criteria and norms to be applied in calculating operating costs,
- extent of claims to be recovered from the joint venture income which will be recorded in the evidence accounts.

Thus by this management input from the foreign partner, it is the intention that Yugoslav enterprises can improve their skills and performance.

The business board has no right to take decisions which infringe the rights of self management. For example these include:

- decisions regarding the personal incomes of the workforce,

- the application of funds generated from the income of the venture which are used as a pooled resource for the workforce,
- mutual labour relations,
- certain aspects of day-to-day management of the workforce.

The procedure is that the business board will prepare proposals on those matters of policy which concerns the BOAL and submit them for consideration by one of following three representatives of self-management, these are:

- management board or chief executive of the BOAL,
- workers' council,
- workers' assembly.

The composition and the numbers from each partner who sits on the business board, as well as the frequency at which it meets and the scope of its process must all be defined in the agreement, as the law makes no reference to these procedural matters.

The procedural rules and voting rights of partners in the business board need to be established including requirements for unanimity, simple majority or two thirds, and the question of rights of veto. It may be sensible to establish a system of casting votes or of one where any unresolved disagreement is referred to a small group of individuals drawn from the two investing organisations to come up with an acceptable solution. By employing this method of joint management, the foreign partner is no longer in an advisory role but actively participating in the decision making processes for the joint venture.

It is normal practice for equal numbers of foreign partner and local partner representatives to be appointed to the business board irrespective of the share of the total investment taken by the foreign partner. The board will normally only meet 2 or 3 times a year and it is customary to hold alternate meetings in the foreign partner's home offices and in the local partner's Yugoslavian offices.

In discussion with European companies with joint venture experience in Yugoslavia it was clear that for them the business board is largely an approving body confirming decisions arrived at within the management structure of the joint venture. Clearly the business board cannot be expected to follow very closely the operations of the joint venture at first hand. One only needs to consider the problems of translation of proceedings and discussion conducted by the 2 sides via an interpreter to see that the business board is fulfilling a largely nominal function. In setting up the business board it is good practice to limit the number of participants to an upper maximum of 10.

As it is now defined in the Joint Venture law, a specific distinction is made between matters relating to the joint venture and any questions which are the exclusive concern of the Yugoslav members of the business board. Since the BOAL, following the first accounting period, will begin to accumulate resources from its share of the income, it will be the responsibility of the local members of the business board to take decisions concerning these assets, the foreign partner will have no say whatever in such decisions. Clearly, as the joint venture matures and these assets grow, the degree of scope of the local members of the business board in such matters will increase.

The ultimate power of the business board is to make decisions relating directly to the joint venture and to the use of the joint venture assets. If the self-management organisation is co-operating, these are normally accepted after consultation and discussion. In the situation where an impasse develops, and these recommendations are repeatedly rejected (say 2 or 3 times in a row) then the ultimate and only sanction of the business board is to dissolve the joint venture and terminate the agreement. As far as can be ascertained there has been no example of this sanction ever being invoked in a joint venture.

The key to a successful relationship between the business board and the workers' council is the choice of an effective and respected manager of the BOAL.

8.1.2. Day-to-day management of the joint venture

The majority of decisions concerning the operation of the joint venture rest with the manager or the managing board, who controls the venture with the direct participation of

the employees which is either via referendum or more normally as vested in the worker's council.

The manager and his immediate deputy must be Yugoslav nationals. However the foreign partner may integrate a certain number of his staff within the joint venture. Two requirements are placed on the use of foreign staff, firstly they must become full time employees of the BOAL, secondly to qualify for work permits they must possess skills and experience not normally available in Yugoslavia. Since the normal justification of a joint venture is transfer of technology, foreign partners have had little difficulty in obtaining these permits. In practice in many joint ventures, once the start up period is over and the foreign partner's assistance by seconding staff for this is no longer needed, there is usually one foreign manager left who remains to act as the link between the day-to-day operations and his own company.

Alternatively, the foreign partner can retain a fully paid representative of his own in Yugoslavia whose task is to remain in close contact with the joint venture while not actually a member of the organisation. It is not possible to determine the most preferable of these two options since the particular nature of the operations and the business together with the size and complexity of the joint venture must all be taken into account. The general view is that for any Western company making a significant investment in Yugoslavia it is indispensable to maintain a permanent resident in the country to keep in touch with all points that can influence the joint venture.

8.1.3. The employment of the foreign partners' staff on a joint venture

Western technical staff are needed at the start up stage of a new enterprise. Some of this assistance may be temporary: it will incorporate everything from short visits to secondment of staff for several years. In the first case, the foreign personnel sent will continue their direct contract with their ordinary employer and will be paid by him. However, if a longer stay is expected the individual may receive an employment contract from the new company. This contract may be of two kinds:

- one for complete or partial employment establishing a regular relationship with the Western employee who will achieve virtually the same legal status as a Yugoslav employee,
- it may simply be a contract for specific tasks for which the Western worker will be paid fees.

In either case the Western worker becomes an employee of the Yugoslav organisation. His salary is fixed in advance by negotiations between the investors in the business. Special conditions apply to deductions on the personal revenue of this employee and the Yugoslav side will need to take account of this. The system of direct remuneration by the Yugoslav enterprise can cause a problem because of the generally lower salaries in Yugoslavia.

This problem can be resolved by the Yugoslav enterprise paying a normal Yugoslav salary while the Western partner 'tops up' the salary by additional payments. The 'top up' sums can then subsequently be invoiced by the Western partner to the Yugoslavian partner.

8.1.4. Industrial relations in the joint venture

The foreign investor finds himself in a situation which may appear difficult: having invested in an organisation, the assets of that organisation are then vested in the workers.

The Associated Labour Act stipulates that the assets of each enterprise are part of the social property entrusted to the enterprise which is obliged to manage them correctly and conserve them. Each worker has a right in the management of these deployed resources. As this right has to be exercised equally between all the workers, the power exercised in an organisation of associated labour is to be found in the hands of the workers or of their assembly. They elect delegates who make up the workers' council as already described in section 2.

A common view of those unfamiliar with the Yugoslav system is that the method of fixing salaries and conditions of work for the workers is made without regard to the general needs

of the organisation. The foreign investor now does have the right to ask the management to limit the percentage of the revenue devoted to wages and salaries. It is apparently here, if problems of excessive salary bills arise, that the business board can request an intervention of the SDK. The latter will make an analysis of the argument of the two parties and, if no agreement between the two parties can be satisfactorily reached, then the SDK will install a special committee to manage the business of the enterprise for up to a year. For this period the committee will take over all the powers of the management. There is a similar situation for disciplinary matters concerning the workforce in the joint venture.

The BOAL in its self-management agreements and social contracts will have established conditions of work and this will have been approved by the workers' council.

In those cases where members of the workforce are not following the agreed conditions of work, the management of the enterprise does not directly wield disciplinary powers. Instead the worker is required to attend a special disciplinary committee formed from representatives drawn from the enterprise, the local commune and the trade unions. This committee then decides on the type of sanction to be applied. Most frequently they consist of salary deductions but can vary from a simple reprimand to suspension from work. Any sanction must then be approved and proposed by the management to the workers' council who will normally confirm it. Dismissal is a sanction which is very rarely applied: the trade unions will intervene in favour of any person threatened with this sanction. In such cases where the offence committed is such as to render impossible the physical presence of the worker on the site, the trade union will undertake to seek new employment for the worker.

8.2. Yugoslav principles of accounting

From the national economy downwards, accounting is carried out according to Marxist principles. So it will be readily realised that the basis for handling surpluses or deficits of income in the Yugoslav economy are very different from Western practices, without identifying very clearly profit or loss.

In addition 'hidden' taxation in the many forms of social and other levies will not make the direct comparison of a balance sheet of a Yugoslav BOAL with a similar Western business an easy matter.

These differences are too explicitly recognised in the joint venture law in relation to the clauses defining the net income of the joint enterprise and the means of distributing the profits or (as they are termed) share of residual income.

The amended 1984 law also includes a new clause which specifically requires the BOAL to give a separate statement in its accounts defining clearly the joint income obtained from its operations using the pooled resources of local and foreign assets (new article 19) (*). Also it is specifically stated that the foreign partner may have full access to the BOAL's accounts from which his share of the income is obtained (new article 35).

It is important to make the distinction at this stage between joint income and 'own' income, i.e. that belonging to the Yugoslav partner (article 20). Joint income is defined as that remaining from the revenue earned by the use of the foreign and local resources after deduction of material and other production costs and depreciation. Such deductions do not include any time dependent material costs that are not related to production rates or a change on working capital, i.e. inventory charges.

Thus the accounts are specifically on the charge of the Yugoslav partner and therefore must not be deducted prior to income sharing. These are defined in article 21 and include:

- national and civil defence,

(*) This is more fully defined in articles 53 to 59 of the Law on the Determination and Distribution of Gross Income and Income (Official Gazette No. 56/84).

- additional depreciation charges which are either above the legal limits or those contractually agreed,
- fines and other penalties for which the foreign partner had no responsibility,
- insurance premiums for property and equipment which are not part of the joint assets of the venture.

Two items are specifically defined which have to be deducted before the income is split (article 22). These are workers' personal incomes and collective consumption. The former item is deducted as a lump sum which is then the responsibility of the Yugoslav partner to allocate to individual workers according to agreed local procedures. The other item for collective consumption can be approximately defined as welfare, social and fringe benefits, these include:

- operation of canteens,
- annual holiday allowances,
- housing benefits,
- contributions to self-managing communities for education, health, social security, cultural needs...

As may be imagined the negotiations leading to the agreed methods for calculating these charges that will be written into the contract are, possibly the most delicate and difficult part in the whole joint venture agreement for the foreign partner.

After these deductions have been made one arrives at the 'residual net income' which is in effect the profit of the joint venture before tax.

While it is commonly found that foreign investors rely heavily on Yugoslav lawyers in drawing up agreements with Yugoslav partners, as will be observed from the foregoing explanation, in many cases, they would have been better advised to have employed the assistance of a local accountant. Many of the crucial points of the agreement turn on the financial obligations of the foreign partner and for this purpose the advice of an accountant in providing a suitable format clearly based on Yugoslav accounting practice is invaluable.

8.3. Financial statements prepared in joint venture operations

It is customary to prepare a bilingual version of the accounts of the BOAL's operations: typical examples are given in figures 8.3(1). to 8.3(3). They will contain the various sections common to most accounts, thus a typical business report will have:

- Profit and Loss account, summary and analysis
- Total income generated and its distribution report
- Production details
- Overhead expenditures
- Balance sheet active/passive
- Cash flow and application of funds
- Analysis of working capital
- Ratio analysis (cash, assets...).

In all cases the current performance is compared with the plan (i.e. budget forecast) and the previous year's results. Both these are also presented as ratios of the current performance.

An important departure in the latest version of the joint venture law is the acceptance of an 'evidence account' to define the foreign partner's claim on his income and invested assets (article 26). While an evidence account may be partly defined as a nominal capital account it also includes the portion of income and other payments due to or from the foreign partner; it is also a financial statement which obliges the Yugoslav partner to meet his obligations to his foreign partner and vice-versa. Thus it goes a long way to resolving the confusion that exists between Yugoslav and Western accounting practices. Another important advantage of evidence accounts is that they provide a very convenient way for the foreign partner to reveal his capital contribution in line with inflation and currency changes.

If the partners agree to use evidence accounts this will have to be stated in the agreement together with the items which are to be included in the account. As a general rule it will include such items as:

- shares of the contracting parties paid to the Yugoslav partner,
- additional investments paid to the Yugoslav partner,
- any reinvested capital the foreign partner has paid from his share of the profits,
- any unpaid profit due to the foreign partner,
- part of the invested capital repaid to the foreign partner,
- those losses which the foreign partner has not covered from his own resources and which therefore will reduce his participation,
- additional payments made by the foreign partner which cannot be met out of the gross income for the period concerned,
- other payments made by the foreign partner.

Thus the evidence account shows the state of claims by both parties together with the dates when these various claims mature or are due for settlement, as well as any increases made in the valuation of the joint venture's assets.

As explained in chapter 3.4.4. the Social Accounting Service (SDK) will monitor the enterprise's transactions to ensure its financial operations are being correctly managed. In addition, the foreign partner may request the Economic Financial Revision Department of the SDK to transpose the enterprise's accounts into a form that will be acceptable for auditing by the foreign partners' national authorities. A fee is charged for this service.

It should be recalled that article 28a of the law of 1978 allows a foreign investor to inspect the accounts of the organisation in which he has invested: this has now been strengthened by the addition of a clause in article 26 of the 1984 law as previously described.

In any case the establishment of the budget and the accounting method follow different systems from the Western model. In addition they are not standardised. This tends to cause problems for Western investors who do not always succeed in understanding exactly the results nor the mechanism used to arrive at them.

Figure 8.3(1). Profit-Loss Account

<i>Description</i>	<i>Previous Year</i>	<i>Plan</i>	<i>Actual</i>
1. Net Turnover Invoiced	100	100	100
2. Variable costs	41.3	43.6	38.5
3. Gross contribution invoiced	68.7	56.4	61.5
4. Semi-variable costs	15.4	12.9	11.4
5. Gross margin invoiced	43.3	43.5	50.1
6. Non paid sales adjustments	3.2	-2.5	-4.1
7. Gross margin paid	46.5	41.0	46.0
8. Contingent expenses	36.0	28.1	28.5
9. Operating margin	10.5	12.9	17.4
10. Extraordinary items	2.4	1.2	-0.9
11. Profit before interest	12.9	14.1	16.5
12. Interest	2.2	4.3	3.1
13. Communal Contribution fund	3.1	2.6	2.7
14. Reserve fund	1.3	-	-
15. Business fund BH	-	-	1.1
16. Profit after BH taxes	6.5	7.2	9.6
17. BF taxes			
18. Distribution profit			

To cope with this problem, as previously mentioned, the SDK has opened a department which, at the request of the Western Investor, is able to translate accounts and balance sheets of Yugoslavian enterprises into the Western model.

However this is obviously no substitute for the establishment of a good level of confidence with the financial director of the organisation concerned.

8.4. Wages and salaries

The payment of wages and salaries requires particular explanation. All organisations pay the monthly salary in advance on an estimated figure. This is based at the start of the year on the estimated performance of the BOAL as a whole (productivity goals, special working conditions etc.). An individual worker's performance and status will be graded on a points system. The value of the points is adjusted each month according to the monthly results of the BOAL.

Each workers's performance and special additions or deductions are calculated to arrive at the total monthly payment. Details of the points accumulated by each worker plus his payment are published and displayed on the work's notice board, any objections can be considered and, if necessary, a revised points count prepared before the personal income is finally computed. Every three months overall adjustments on the portion of the enterprise's income going to meet wages are made to ensure that these are related to actual

Figure 8.3(2). Total income and distributed added value

Description	Previous Year	Plan	Actual
1. Total Income	100	100	100
2. Expenditure	60.8	64.0	53.7
3. Value added	39.2	36.0	46.3
Added value to be distributed	100	100	100
1. Wages and Salaries	49.3	44.3	38.7
2. Contractual obligations	18.2	14.3	12.8
3. Legal obligations	5.1	4.6	8.7
4. Interest	4.7	11.3	6.5
5. Depreciation (1)	-	-	4.7
6. Communal contribution fund	6.7	6.7	5.8
7. Reserve fund	2.8	-	-
8. Business fund	-	-	2.3
9. Profit after BF tax	13.4	18.8	20.5
10. BF tax	-	-	-
11. Distributable profit	-	-	-
Average No. of employees	779	700	838
Gross salary per employee (2)	6907	10,267	12,319

Notes:

(1) Additional depreciation above minimum rates

(2) Dinars/month

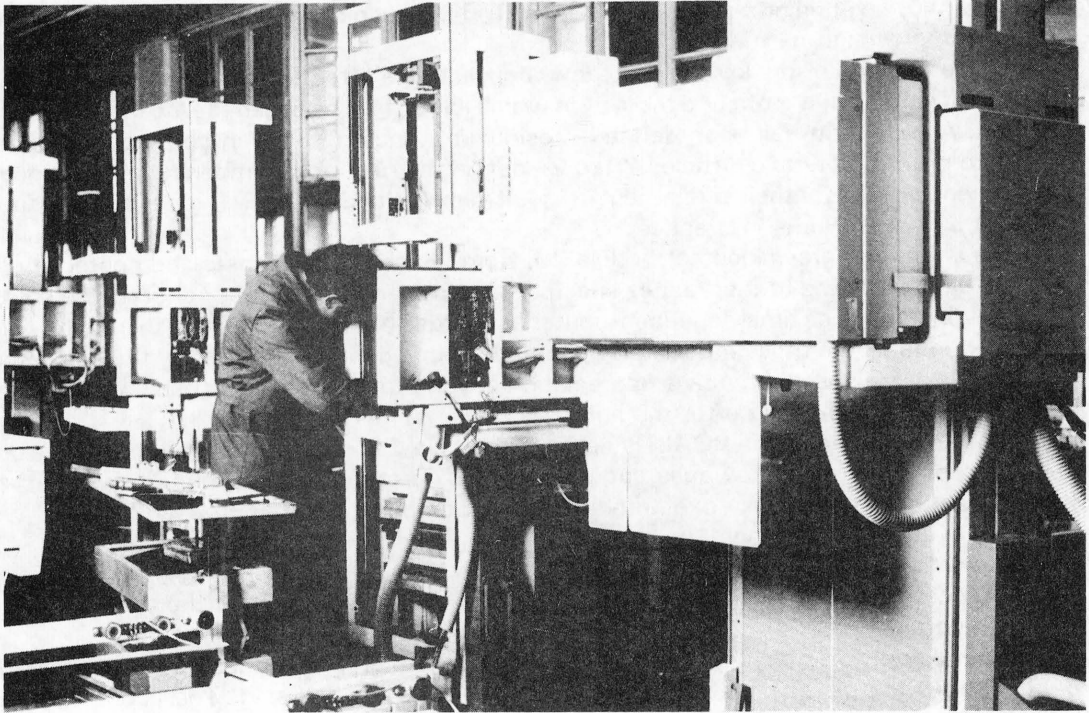
performance. A final balance on all salaries is computed at the end of the year. In theory, this should mean in the case of an OAL which suffered severe losses during the year that significant differences between planned, paid and computed salaries could occur. While in practice there appear to be no cases where workers are required to refund overpaid salaries, it does mean that quite severe limitations are imposed on general salary rises in a loss making enterprise. In this context it is also significant to note that over the whole of Yugoslav industry the real value of salaries has fallen by about 30% over the last 3 years, due to the country's economic problems. It is significant that this has been achieved not by national directives but through the self regulating mechanism of each individual enterprise.

Figure 8.3(3). Cash Flow

Funds Flow — Cash Flow

No.	Description
1.1.	Profit
1.2.	Unpaid sales
1.3.	Depreciation
1.4.	Exchange variations covered
1.	TOTAL
2.1.	Dividends
2.2.	External bus fund
2.3.	Reserve fund
2.4.	CCF
2.5.	Deposits
2.6.	Investments
2.7.	Fixed assets
2.8.	Stocks
2.9.	Debtors
2.10.	Prepayments
2.11.	Creditors
2.	TOTAL
	SURPLUS-SHORTFALL
	FINANCE
3.1.	Equity
3.2.	Long term loans
3.3.	Short term loans
3.4.	Cash
	TOTAL





CHAPTER 9

TAXATION OF FOREIGN INVESTORS' PROFITS

9.1. Income in a self-managed enterprise

The principle of a self-managed enterprise in the socialist market economy of Yugoslavia is that labour is sold in return for income. This has a legal basis defined in the Associated Labour Law describing the status of workers in self-managing communities (Official Gazette No. 53/76 of 1976).

The principle is that workers employ socially owned resources in order to generate income; the means for generating this income is production, manufacture or other economically related activities. The income obtained may be distributed and spent along certain agreed lines laid down by one of the following:

- in self-managing agreements drawn up by the workers
- social compacts
- mutually co-ordinated development plans

From these means of distribution it then becomes possible to channel funds to finance those services, which elsewhere would be financed by the state, that have a non-production role (e.g. education, health...) but which provide a non-economic service to society in exchange for a contribution of shared income.

Clearly, in an organised society of this type, a problem can arise concerning the means of allocating or disposing of surplus funds that are earned by the workforce in what, in Western terms, would be a profitable operation. In Yugoslavia this income is not taxed but basically redistributed as, what is euphemistically called, a 'contribution' to the republic, which is, in fact, a hidden tax, or else is re-invested in the self-management community.

Consequently, taxation on profits as a specifically defined and accountable item, really only exists for the foreign partner.

In the latest version of the joint venture law, considerable attention has been given to this question of income and profit and the way in which it is shared between the local and foreign partners. A new term has been defined, 'residual net income', which corresponds quite closely to profit before tax. Articles 20 to 24 define the rules for 'compensating' the local and foreign partners for their investment in a joint venture, and figure 9.1. gives a flow chart showing how this works in practice.

Revenue is termed 'gross income' (article 20) from which material costs and depreciation are then deducted. The former relates specifically to materials employed for products sold, since any inventory or time dependent material charges are excluded from this item. The depreciation rates are those mutually agreed and specified in the contract by the partners. If either partner wishes to increase depreciation beyond these limits, this can only be done from the income remaining after the split.

The term 'net income of the BOAL' is defined in article 21, this is used to apply after the deduction of expenses (i.e. wages and salaries) plus statutory obligations. However the foreign partner is specifically exempted from paying obligations for:

- national defence purposes
- depreciation charges above those contracted for
- insurance premiums on resources and materials that are not part of the assets of the joint venture
- fines and court fees for any offences in which the foreign partner has no responsibility.

Such charges are paid by the BOAL in its income following the split. The actual split in income is now made as defined in article 22. It is this amount which is termed the residual net income (RNI), and the split is made either according to the proportion of resources invested by each partner or else according to mutually agreed criteria. Articles 23 and 24 define the RNI for each partner respectively, indicating clearly the purposes for which the latter may use his RNI (renewal of resources etc.).

9.2. Taxation liability of a foreign investor

As may be seen in Figure 9.2.(1) (*), showing the distribution of profits in a joint venture according to the 1984 version of the law, a tax is levied on the foreign partner's profits. The Federal Government only collects a basic sales tax and customs duties, all other taxes are set and collected by the republics and autonomous provinces. Thus the foreign partner in a joint venture is liable to tax on his portion of the profits with these taxes being collected by the republic (or autonomous province) where his operations are located.

A new tax rate has been set, at the end of 1984 (formulated and enacted in a Social Contract on the Foundation of Tax Policy), which is now rather more advantageous to foreign investors. A unified tax of 10% is applied on the profit share which the foreign investor receives (previously a graduated rate varying from 35% to 10% was applied to the republic in which the joint venture is sited).

Additionally, a progressive tax incentive is applied to encourage the reinvestment of the foreign partner's profits. This incentive applies to all profits which are either reinvested in the same venture or invested in another venture over and above the first 25%, which carries the full 10% rate.

As an example, according to the proportion of profits reinvested, typical rebates are:

- 25% of profits reinvested allows a reduction on that part of 15% of taxes
- subsequent 25% reinvested, then tax becomes a 30% reduction
- remaining 50% reinvested, rate of tax is halved on this portion.

(*) It is interesting to compare this with Figure 9.2.(2) which shows the profit arrangement prior to the 1984 amendments.

Figure 9.2.(1). Profit sharing and taxation of foreign partner's earnings according to 1984 joint venture law

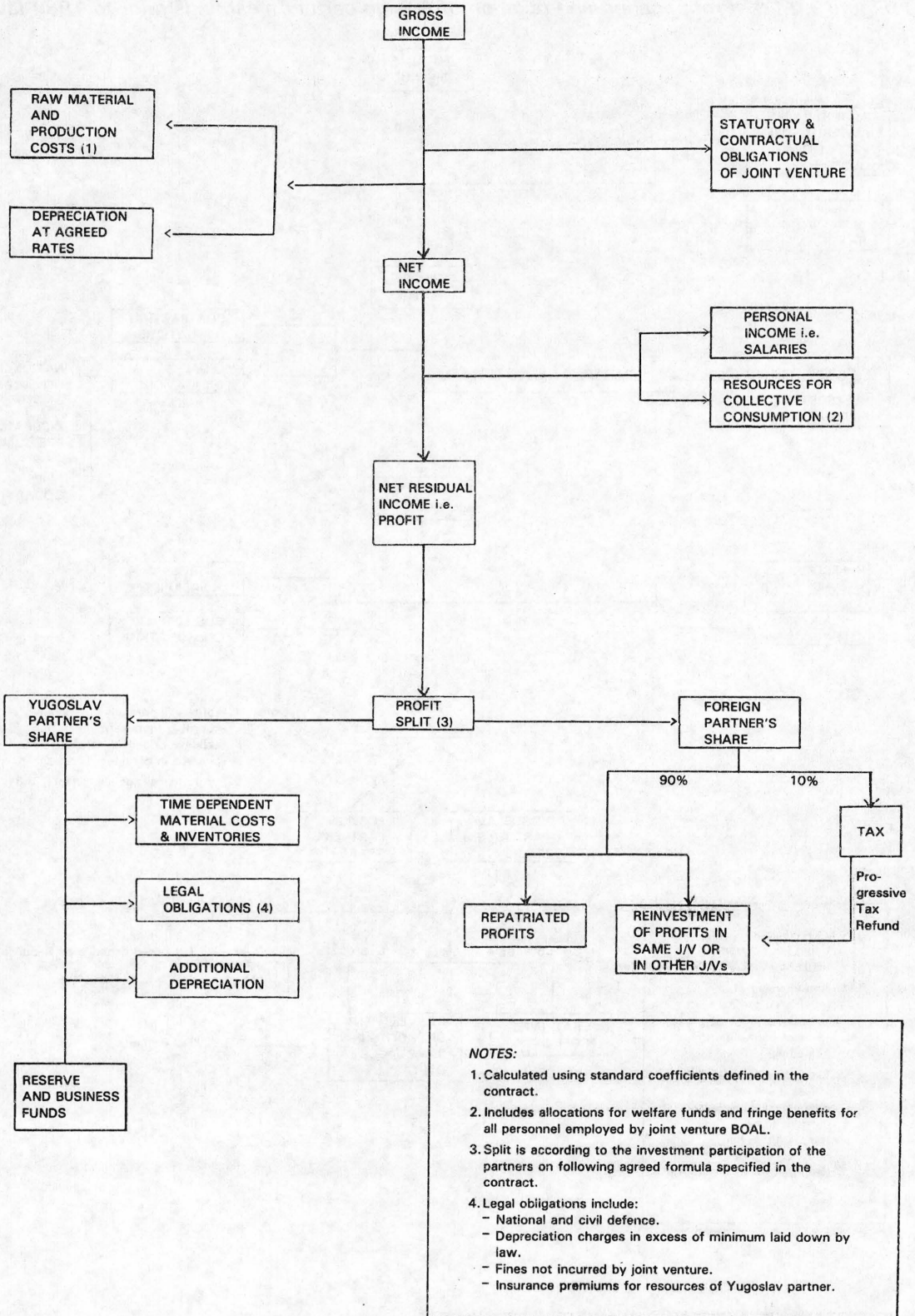
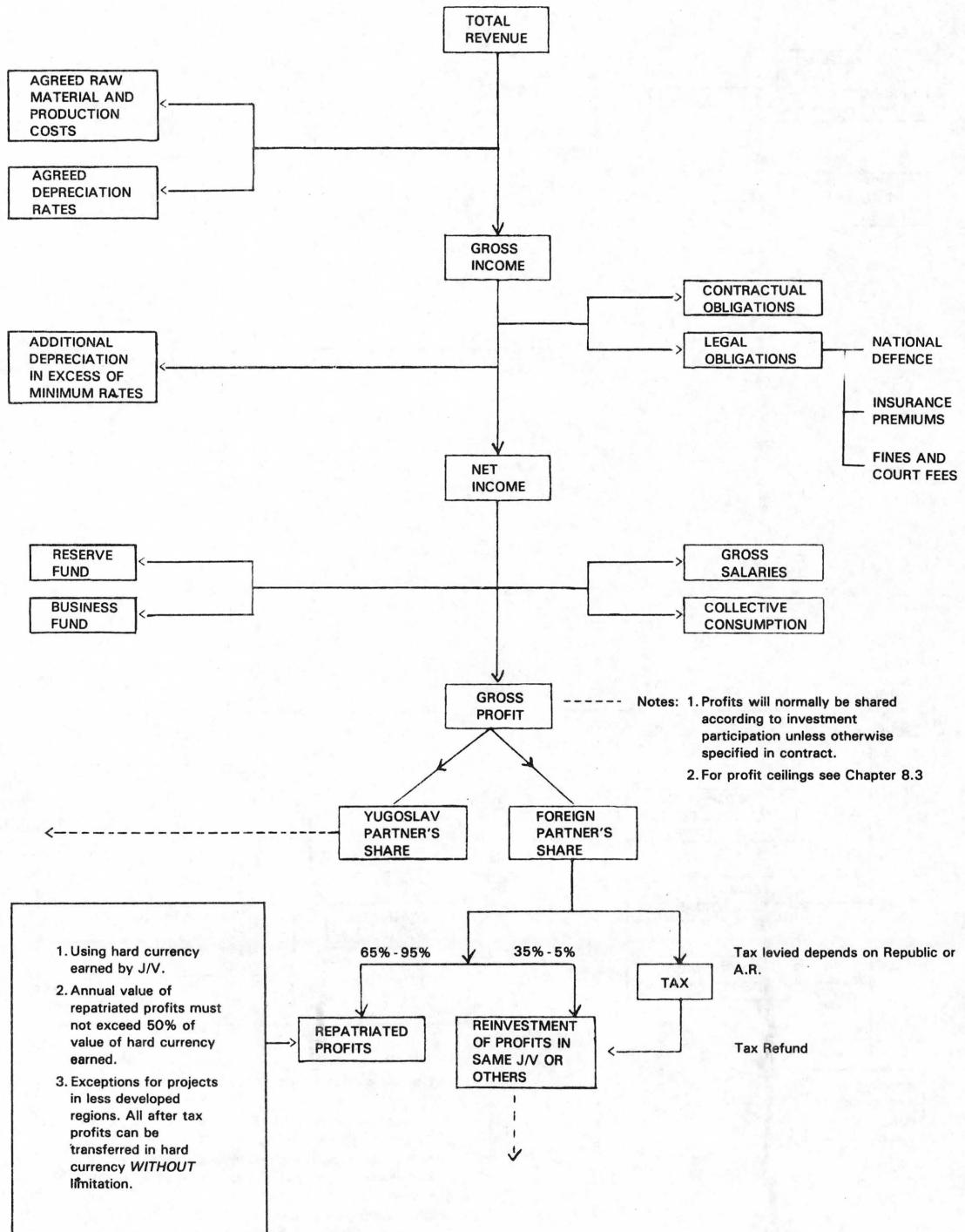


Figure 9.2.(2). Profit sharing and taxation of foreign partner's earnings prior to 1984 law



Consequently, if an investor is liable to pay the 10% tax and he reinvests the totality of his profits, the tax liability is reduced to 8% of his total profits. It should be noted that the joint venture law contains no reference to direct taxation: the details of taxation rules affecting foreign investment are contained elsewhere.

Table 9.2.(3) Analysis of the Distribution of Income for OALs

	1980	1983
Net average earnings	33.6	30.0
Fringe benefits	8.7	5.0
Net personal earnings	42.3	35.0
Depreciation	10.6	13.0
Interest payments	7.3	12.7
Business funds	12.6	12.3
Reserve funds	2.2	3.2
Other	2.7	2.7
Gross savings	35.4	34.9
Collective consumption	16.7	16.2
General consumption	3.3	2.2
Other legal obligations	2.3	2.7
Total Resources to Public Consumption	22.4	21.1
TOTAL INCOME OF OALs	100.0	100.0

Source: OECD Survey of Yugoslavia, p. 52, December 1984.

Table 9.2.(4) Analysis of gross personal income distribution

GROSS PERSONAL INCOME	100%
1. Net Personal Income	(78.28)
– as distributed in salaries	73.06
– sick leave compensation fund	1.73
– other components	3.49
2. Levies on Personal Income	(21.72)
– commune tax	0.93
– education and training	1.41
– retirement pension, disability insurance	9.12
– health insurance	6.81
– child allowances	0.90
– pre-school child care	1.19
– unemployment insurance	0.47
– cultural purposes	0.91

9.3. Levies and indirect taxation

Examination of Table 9.2.(1) indicates that quite significant deductions are made from gross income for levies. The 1984 law has reduced for joint ventures the levies which previously took almost 20% of gross income from the foreign partner prior to establishing the net joint income. Some of these deductions, as well as certain ones taken from the net income under the guide of the 'joint consumption fund' are in fact payments made to the work organisation in which the joint venture BOAL is associated. This contribution is no longer paid by the foreign partner and this represents one of the major advantages for would-be investors as a result of this amended legislation.

This form of taxation had been frequently criticised by foreign investors, particularly when the level of these contributions was arbitrarily increased following the signature of the agreement.

New investors, when drawing up agreements, had previously been advised to make special provisions in the contract by which they could be exonerated from paying into certain federal funds (e.g. for defence) or into social funds (e.g. housing), as well as limiting to a maximum percentage of the total revenue, certain specific deductions. As described in Chapter 8 significant changes to this procedure have now been incorporated in the 1984 Joint Venture Law.

These are quite significant modifications to the definition of the profit available to the joint venture partners. The impact will be to reduce the foreign partner's contribution to indirect taxation, and to decrease the number of deductible items from his share of the profits. Even so, it is a complex and iterative calculation which the foreign partner has to undertake to determine exactly his taxation obligations, and to determine precisely how much tax he has actually paid.

9.4. Depreciation rates

Minimum chargeable depreciation rates are fixed by law and up-dated and amended by subsequent government regulations (Law on changes and amendments of the law of depreciation of assets of BOALs and other users of social needs, Official Gazette, No. 65 for 4/12/81).

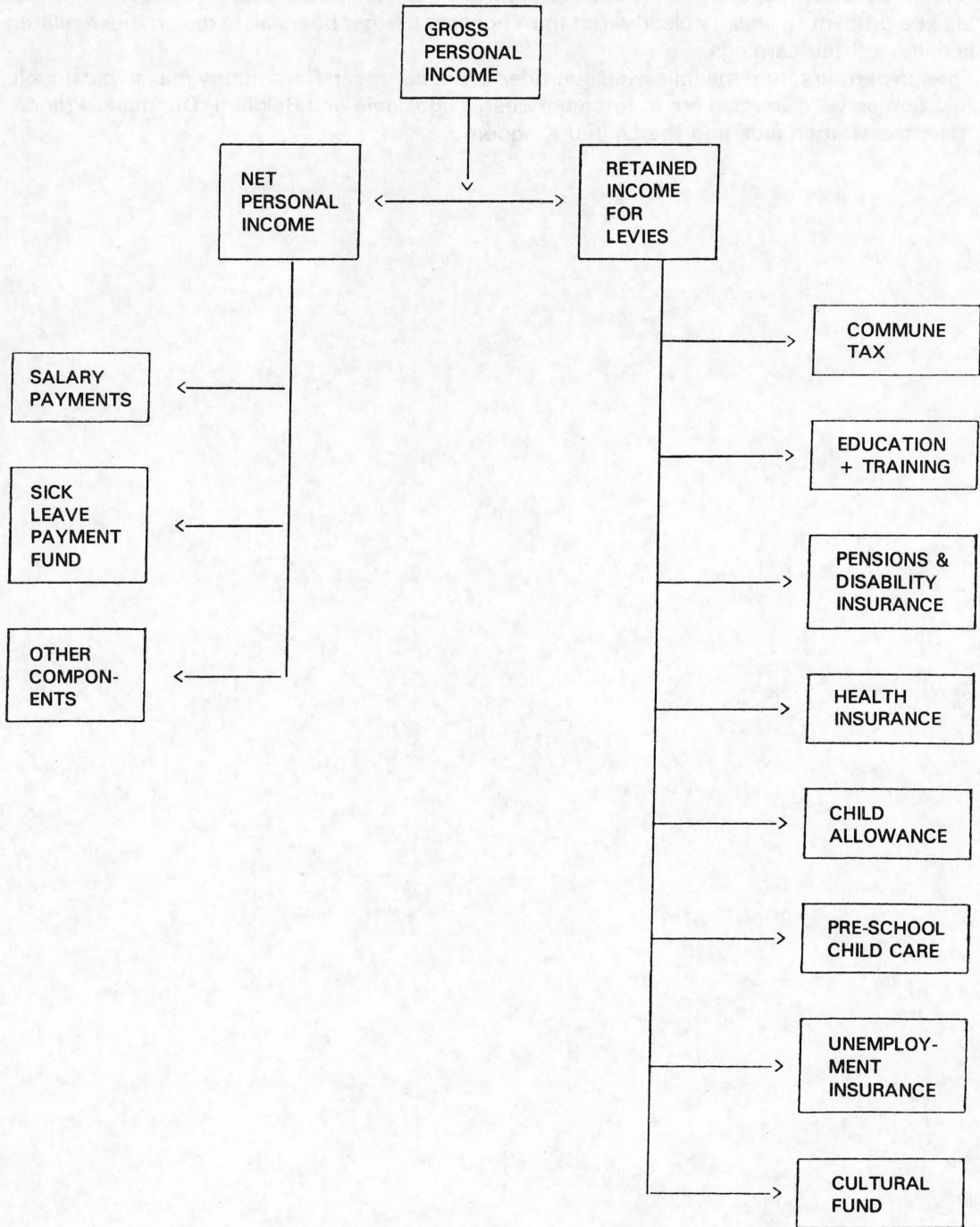
This provides a very comprehensive list of assets for which depreciation rates can be applied. Typical rates for buildings are a minimum of 5% per year, chemical plants 33% per year and so on. Where joint venture partners agree to increase these rates, that additional amount deducted can be taken before declaring the gross income (see Figure 9.3). Furthermore, the joint venture agreement must apply higher than agreed rates as these must too be deducted following the profit split.

9.5 Other taxes

As in the European Community a turnover tax is applied for all purchased items. This contribution by the consumer is one of the largest sources of revenue in the republic budgets but is not payable directly by the enterprise.

Direct taxes applied to the salaries of Yugoslav workers are shown in Figure 9.5(1). The actual level of taxation applied directly and indirectly varies between republics and, where it is levied directly by the community, will also vary between locations. Table 9.5(2) shows a typical breakdown of deductions from a workers' salary.

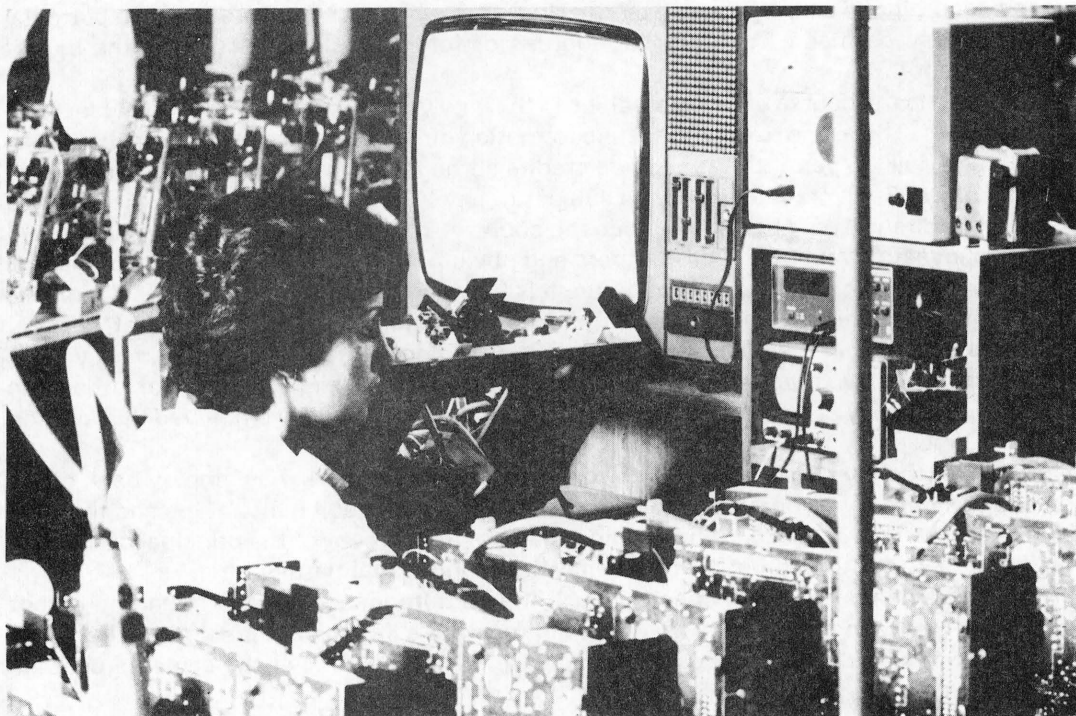
Figure 9.5. Direct taxes on salaries and other deductions



9.6. Royalties and licence fees

Authority has been vested in the republics to apply taxes to payments for licence royalties and fees. To date no taxes have been levied by this means, but it would be wise for any foreign partner to specify in his licence contract that he will be paid a net fee. He would also be prudent to specify clearly that the Yugoslav partner bears all taxes on these related licence and fee earnings.

Foreign partners from the following countries in the European Community may avoid double taxation as valid treaties are in force between Yugoslavia and Belgium, Denmark, France, Italy, the Netherlands and the United Kingdom.



CHAPTER 10

FINANCING REQUIREMENTS FOR JOINT VENTURES

10.1. Investment protection

The foreign partner will need to be supplied with an irrevocable guarantee for his contribution to the assets by his Yugoslav partner. This guarantee is normally limited to 80-85% of the agreed value.

This guarantee will be lodged with a Yugoslav bank and it must be accompanied by 2 documents. One will confirm for the bank that the Yugoslav partner is authorised to employ hard currency in the event that the guarantee is called, since this is a non-deposit guarantee. Secondly, a statement concerning the export potential of the joint venture and its hard currency generation is required. It is helpful if this can be accompanied by an indication of the extent to which the foreign partner will be undertaking to buy back any portion of the output of the joint venture. A statement of this kind will obviously carry much more weight with the bank in persuading them to issue this guarantee.

10.2. Capital available for joint ventures

The Yugoslav partner may obtain his share of the assets from 3 sources, either assets he has accumulated in his reserve fund, assets contributed from another enterprise with whom he has a contractual agreement or, finally, from a Yugoslav bank. Yugoslav enterprises can obtain loans in local or convertible currencies. In the latter case these loans will have to be registered in the NBY and the enterprise may be obliged to place an interest free dinar

deposit according to terms imposed by the NBY. Repayment of these convertible currency loans can only be made from suitable sources of foreign exchange such as the export retention quota.

The facility is in the course of being modified in the new version of the Law on Joint Financial Organisations. The aim is to encourage the formation of 'joint venture banks' which, among other things, will be permitted to provide credits abroad in favour of the foreign partner of a joint venture. Such credits will not be subject to any Yugoslav foreign exchange controls since the credits will only be used outside the country. This facility will be a significant help to foreign investors and their local partners and obviously requires the formation of several of the proposed 'joint venture banks' before it is fully operational. One of the results of this facility will be to avoid any disruption in the supply of imported materials to a joint venture, which has occurred in the past due to delays in obtaining the required hard currency. This brings the Yugoslav treatment of foreign investors more in line with that of other non convertible currency countries such as Egypt which has successfully employed this method for some time.

In article 8 of the joint venture law both foreign and local partners may employ bank credit or loans to support the joint venture. The total value of this credit may not exceed the total value of the combined contributions by both parties. Repayment of the principal of the loan may be made prior to separation of income to the individual parties.

Further, the amendments also specify that if the venture incurs losses of such an extent in one year that loan repayments from the joint venture's income are precluded, then both partners must provide these funds from their own resources, and at the same percentage split as their assets contribution.

In connection with this financing, if it is provided in hard currency by a foreign bank or institution, then this bank can be party to the joint venture agreement as a co-signatory. At this point it would appear that it is constituted as one of the foreign partners.

Taking into account not only the very high interest rates in force in Yugoslavia at this time (up to 60%) but also the dinar revaluations, it will obviously be preferable to employ hard currency loans rather than local currency ones, just so long as the project will be capable of generating enough hard currency to service and repay these loans.

10.3. Timing for provision of financing

As will be realised the joint venture, through the BOAL, will not be a legal entity, until formally registered and established. Consequently, the Yugoslav banks will not be in a position to open the necessary accounts or validate and give approval for any loans or guarantees until this takes effect. This problem has proved to be a serious hurdle for the start-up period of quite a few joint ventures and their initial operations have been considerably complicated by delays in formalising all these financial details. The advice to would be investors, which is fully endorsed by the Yugoslav banks, is to present them with the proposed requirements at the earliest possible state of the negotiations. The banks' position and requirements can then be fully taken into account when drawing up the agreement. Also a reasonable schedule for obtaining the financing at the required moment of the start up may be agreed with the banks. An organisation (IICY) experienced in handling joint venture negotiations observes that it is unwise to *under-estimate* the time needed to put in place all the financing features of the joint venture.

10.4. Valuation and repatriation of the foreign partner's assets

All joint venture agreements must include a clause describing the means by which a foreign partner is reimbursed and under what circumstances, whether gradually during the life of the project or on termination (article 25).

Since the foreign participation has no market value in Yugoslavia it is essential that the value to be attributed to the assets is agreed in advance between the two parties. The FCEI are content to let the partners select one of several formulae. The generally adopted arrangement is to revalue in dinars the agreed value of the foreign partner's assets on either 6 or 12 monthly intervals taking account of the effects of both inflation and fluctuating exchange rates. It is clearly essential that all revaluation of assets is included in the 'off-record' accounts (article 26).

One or two forms of repatriation are normally employed. The first involves a staged repatriation through the life of the project, so that on termination of the agreement all the foreign partner's assets have been repaid. In this situation there is normally a two year grace period at the start of project when no repayments are made. Such an arrangement of staged repatriation must be set out in the contract so that the necessary approval for hard currency can be obtained.

The alternative is for the foreign partner to maintain, or even increase, his assets during the lifetime of the agreement. On termination the total assets are then converted into a loan. This is paid back to the foreign partner by the local partner together with the interest due on any outstanding portion of the loan, over an agreed period. The agreement for the joint venture must specify which procedure is to be followed. If the latter is chosen, obviously the details of loan conditions are negotiated on termination.

It will also be necessary to specify in the agreement the general procedures to be laid down for dealing with matured but unpaid liabilities, outstanding service fees and other credits or payments.

In the case where the foreign partner's assets are run down while the agreement is in force, Yugoslav law does not consider this as a credit arrangement but a foreign capital investment with all the benefits which occur up to the termination date of the agreement.

Any capital gain made by the foreign partner is not subject to tax since it is not considered as profit.

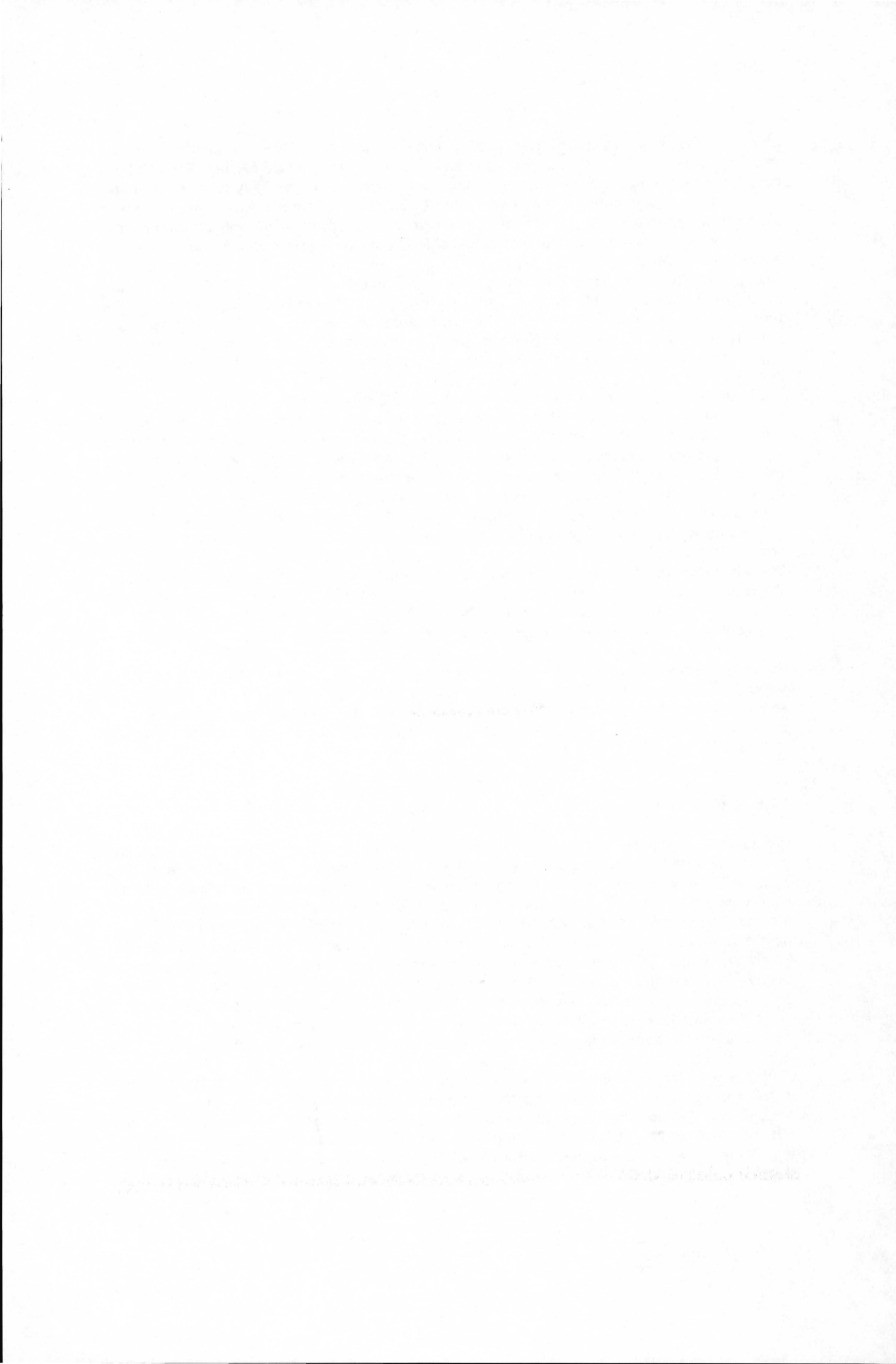
Repatriation of hard currency of asset funds from the Yugoslav partner to the foreign partner (article 30), is not subject to the normal conditions governing availability of hard currency, so long as the contract specifies that they are to be repaid in this way, and the assets have been denominated in an evidence account. It is possible for the foreign partner to be repaid in dinars (article 41).

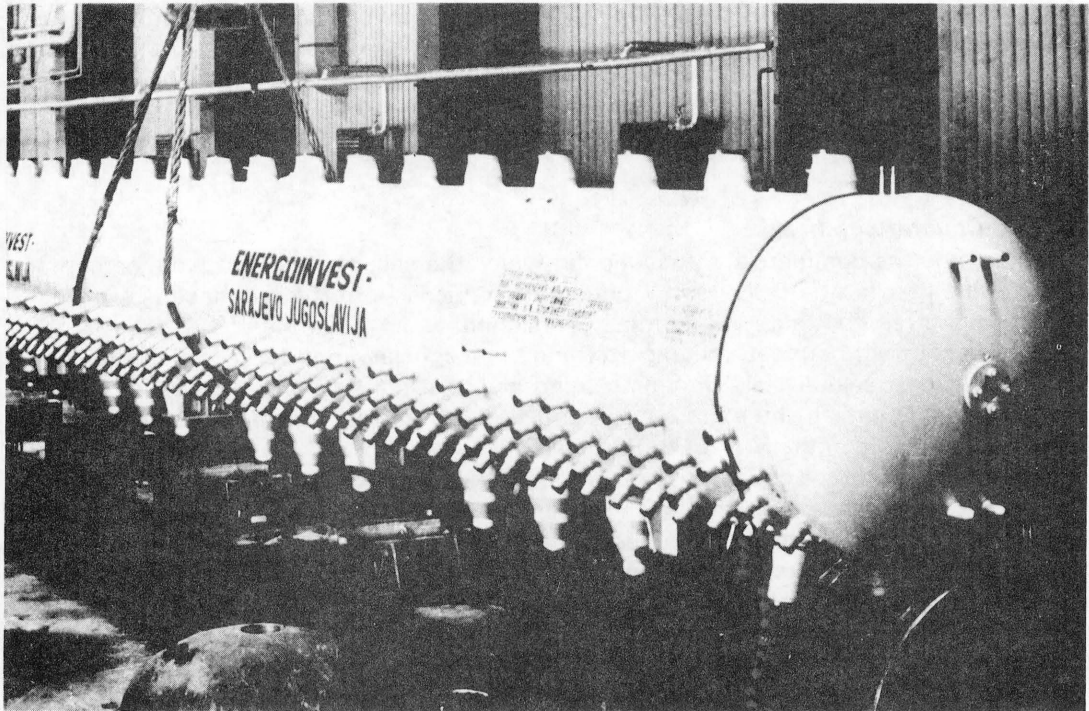
10.5. Export finance

In undertaking exports a Yugoslavian firm is confronted in the same way as its Western counterparts with finance problems especially in exporting to the Third World. A feasibility study will therefore need to indicate the manner of export financing to be adopted. Banks clearly play a key role in export credits. However for longer term transactions (plant construction, ship-building) the exporter will have recourse to the Bank for International Economic Co-operation (JUBMES). This has been created to assist capital goods manufacturers involved in export: it guarantees the re-financing of long term credit provided by commercial banks. These credits are from 2-10 years as appropriate. It is also able to carry out leasing or consignment operations. These re-financing operations are denominated in dinars. JUBMES can allow some payment grace to the exporter between 6 months and 5 years as necessary. In addition it will undertake export insurance of any transactions in which it is involved.

JUBMES will also re-finance documents presented, without surcharge. On the other hand it will apply a premium for its insurance and credit operations. It has taken over all the activities of the previous Fund for Export Credit and Insurance. It is established by law (Official Gazette No. 55/1978) and holds a monopoly position.

It is foreseen that the scope of JUBMES will be expanded when the new law on 'joint venture banks' is passed as it is expected that these will come under its jurisdiction.





CHAPTER 11

ROLE OF COMPENSATION TRANSACTIONS IN CO-OPERATION AGREEMENTS

11.1. Approvals required for compensation agreements

It is possible that a collaboration with a Yugoslav enterprise may involve a need for a compensation agreement with organisations registered to import and export. Every such transaction must be approved by the Federal Secretariat for Foreign Trade. This takes a minimum of 20 days.

Certain conditions must be met to obtain an authorisation: the exports must be more valuable than the imports: the exported product must be saleable abroad and the imported products must be either indispensable production goods or consumer goods of which there is a shortage.

The official view is that transactions of this kind can disrupt normal trade and may have an adverse effect upon price and quality of goods available.

Compensation agreements may however turn out to be a necessity for certain joint ventures or co-operation agreements because of the foreign exchange problem.

The law of 5th March 1982 regulates compensation agreements.

11.2. Types of compensation agreements

11.2.1. Barter-like compensatory deals

As a rule this transaction involves payments. A single contract is drawn up covering trade in both directions. Invoicing is in convertible currencies. The non-compensatory part of the deal will involve the exporter being paid in the normal way. For the compensatory part he

will wait until the product of the sale of his goods is known. The compensatory part can be ceded to a third party who can discount it. This will be done on an evidence account with a Yugoslav bank. The equilibrium will be re-established by further provision of goods or services, never convertible currency.

If the compensatory goods are furnished to a third party in the EEC that party will pay the first exporter.

11.2.2. Counter purchases

This concerns the commercial transaction in which the seller agrees to take a percentage of the value of what he delivers in products or services from the purchaser.

In this case three contracts will normally be signed:

- (a) a sales contract between the exporter and the Yugoslav importer in which all aspects of the export sale are laid down including payment conditions.
- (b) a contract in which the exporter agrees to take from his Yugoslav partner goods or services for the entirety or part of goods.
- (c) a purchase contract covering the exporters obligations under the second contract.

These contracts will be executed in convertible currency: however as separate contracts are involved, neither supply nor payments need to be made at the same time. Furthermore the subject matter covered by the two contracts may often be quite different and may indeed involve a third person.

In this case the Yugoslav importer will ask an EEC bank for a credit: once this is obtained the Western exporter will furnish the goods to the Yugoslav importer and the bank will pay him: once the compensatory exports to the EEC have been delivered, the Yugoslav enterprise will then repay the credit.

11.2.3. Buy back

This type of transaction is generally known as a compensation agreement, which can lead to confusion.

Generally this system relates to turnkey projects. The Western seller agrees to buy part of the production of the factory to cover a part of the cost of the operation. It may even surpass the cost of the supply if, for instance, the Yugoslav importer of the project also wishes to cover financing costs.

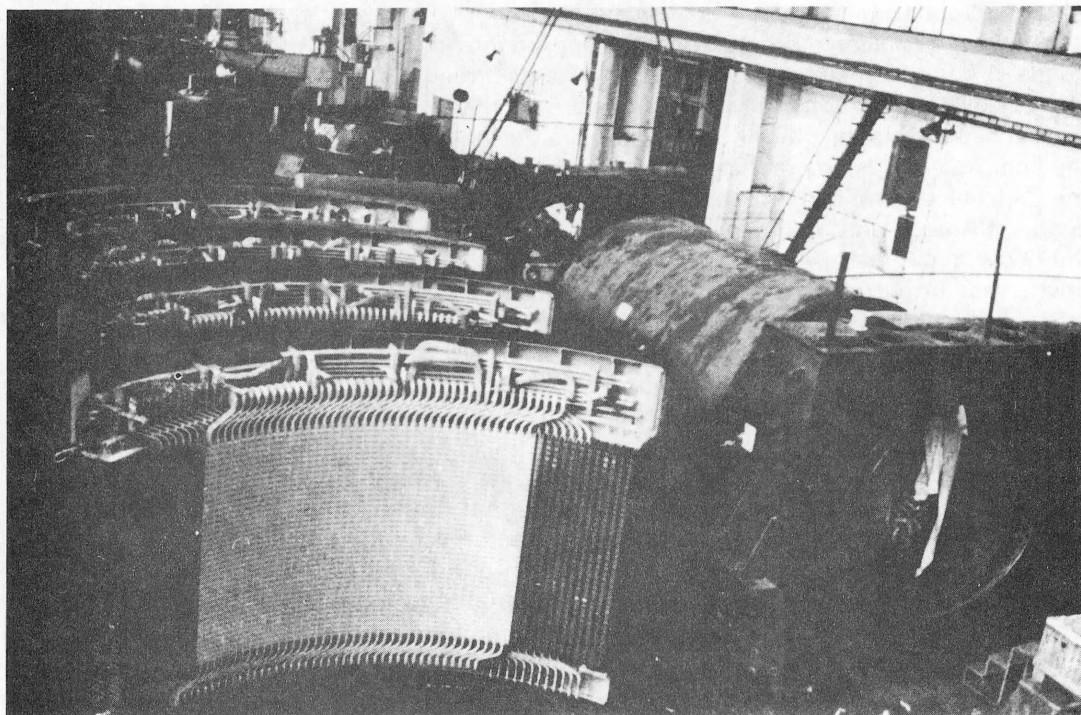
This system involves two separate contracts: obviously goods are supplied during different periods. Invoicing is generally in a single currency: normally a Western bank will provide finance to cover the period between delivery of the factory and the supply of its products.

11.2.4. Gentlemen's agreement

A system based upon a simple agreement to achieve an equilibrium between imports and exports over a certain time period which can be from two to five years. This type of agreement allows long term planning. An evidence account will normally be used.

11.3. Comments on compensation trade

The official view on compensation transactions is an unfavourable one. However in many cases the Western investor may find himself obliged to accept this type of transaction. It is clear nonetheless that a substantial number of compensation transactions are undertaken and in the first five months of 1983, 1,736 requests for authorisation of compensation deals were received of which 533 were for West Germany and 350 for Italy. Of course not all these requests will have been by operations engaged in co-operation agreements or joint ventures with Yugoslavian firms, although there are some indications that compensation agreements as part of joint venture or long term co-operation agreements are increasing. The feeling of Western firms is however to hold out against these because of the considerable problems that they do cause to the Western partner.



CHAPTER 12

IMPORT/EXPORT REGULATIONS

12.1. Introduction

The following brief introduction will be oriented towards the requirements of those engaged in co-operation agreements or joint venture agreements which involve both the importation of capital equipment or production materials as well as the export of products.

Imports and exports are classified into 3 categories which are:

- unrestricted movement of goods into and out of the country,
- quota basis for commodities and essential goods,
- licences for specific items.

In terms of importance, unrestricted movement is by far the largest, accounting for 70% by weight and 60% by value of all trade across frontiers. Quota goods are quite significant and represent 20% of all imports. Licences are issued for specific materials whose movement is legally restricted; it includes for example narcotics, works of art etc.: this is by far the smallest category representing only 1.2% of all trade.

12.2. Yugoslav import regulations

12.2.1. Unrestricted imports

These are allowed to the limit of the foreign exchange at the disposal of the BOAL who requires foreign goods. Thus this flow of goods is solely regulated by the availability of convertible currency rather than by any direct foreign trade policy.

12.2.2. Quota movements

It is the responsibility of the BOAL, or the appropriate enterprise, which requires the foreign goods or commodities, to decide on those items it requires, and in what quantity they are to be classified by quota. Two categories are accepted: RK imports, which are designated on a volume basis, or DK imports, which are designated on the foreign currency costs of the imported goods; in practice most quota imports are specified in both categories. Once the OAL has determined its quota requirements, this is incorporated into a SMA (Self-Management Agreement). In those cases where an enterprise is unable to reach an agreement, the decision can be referred initially to the Yugoslav Chamber of Economy via the appropriate trade or professional association for approval. If this is refused, the OAL can appeal to the Federal Secretariat for Foreign Trade (FSFT), to establish precedence on priorities for essential supplies. At present more than 1200 articles are subject to import quotas: of these over 75% were agreed without reference to the FSFT.

The SMA is renegotiated on an annual basis and if, on renewal, any of the contracting parties are not satisfied with their share within the SMA, an appeal can be lodged with the FSFT. In general the FSFT reports that this system works well for imports: it allows a reasonable level but not excessive degree of federal supervision. Recently the policy has been to favour imports of raw materials and semi-finished goods.

However, merchandise imported by the foreign partner under a long term co-operation agreement or under a joint venture agreement or under a compensation agreement which would otherwise be restricted by the quota system, does not fall under the quota system. This merchandise can include equipment, raw materials or semi-manufactured goods.

In such cases the appropriate authority, whether the FCEI or FSFT, grants a specific commodity quota which comes into force on registration of the agreement and remains in force during its validity.

Figure 12.2. Payment periods for Imports

Category *	Settlement means	Term for completion of payment	Remarks
LB (fully liberalised imports)	(a) Letters of credit (b) Payment against documents	45-60 days	Nearly half of all imports fall into this category, e.g. certain capital equipment, vehicle spare parts, machinery, chemicals etc. Payment by b) is not recommended.
DK (foreign exchange quotes)	Irrevocable, fully guaranteed letters of credit with Yugoslav bank	75-90 days	Due to annual maximum limit of foreign exchange set aside for this category, some shortages can be encountered. Includes manufactured capital equipment — e.g. pumps, compressors, cranes, other lifting gear etc.
RK (volume quotes)	ditto	90-105 days	Annual limits are imposed on either numbers of units or total volume. Items include cement, other bulk raw materials, also transportation equipment of all kinds.
D (licensed imports)	ditto	180-240 days	Special gross requiring specific Federal approval. Very limited category for narcotics.

* A full explanation of these categories may be found in Chapter 14.

The permission to use foreign currency to pay for goods imported under the quota system is not given automatically with the quota approval: this permission must be obtained separately from the SIZ for Foreign Trade and the Yugoslav Chamber of Economy. It should be noted that in addition there are a number of products which are imported under special licences: according to the Federal Secretariat for Trade around 10% of trade was items in this category. This includes in particular items such as drugs, certain medical items, works of art and weapons.

12.3 System for allocation of foreign currency for imports

In principle according to the law for Foreign Exchange Operations and Foreign Exchange Credit Relations (*), foreign exchange belongs to those firms which have earned them through exports of goods or services or to the sub-contractors shown to have contributed to the final exported product. An enterprise which has a shortage of foreign exchange can arrange a foreign exchange credit on condition that it does not have existing credits overdue for repayment.

Administrative responsibility for the regulations on allocation of foreign exchange lies with the SIZ for foreign economic relations in the republics (see Chapter 3.4.3.). A series of criteria has been laid down for them to follow to ensure common policies in different republics.

Prior to 1984 the procedure for a BOAL to retain its hard currency earnings was extremely complex. Since then the regulations have been simplified and the system can be briefly outlined as follows:

- the BOAL with export earnings surrenders a tranche of its hard currency equal to 44.1% to the NBY,

Figure 12.4. Customs duties levied on various categories of imported goods

Division of the customs tariff	average rate of duty	%
I.	Live animals and products of animal origin	8.4
II.	Products of plant origin	6.5
III.	Fats and oils	6.1
IV.	Foodstuffs, Beverages and Tobacco	13.03
V.	Mineral products	6.21
VI.	Chemical products	9.96
VII.	Plastic materials and rubber	13.00
VIII.	Leather and leather goods	7.99
IX.	Wood and wooden products	8.10
X.	Papier and paper products	11.77
XI.	Textiles	15.36
XII.	Footwear	17.93
XIII.	Stone, plaster, glass and ceramic products	13.29
XIV.	Precious stones and noble metals	14.95
XV.	Base metals and manufactures	12.75
XVI.	Machines, apparatus and appliances	14.60
XVII.	Means of transportation	13.21
XVIII.	Instruments	14.37
XIX.	Arms and Ammunition	20.00
XX.	Miscellaneous	16.78
XXI.	Works of art and antiques	5.00
For the whole tariff		11.40

(*) Official Gazette Nos. 17/84 and 71/84.

- a further amount, not in excess of 10%, is surrendered to the appropriate republican national banks,
- the remaining 45.9% is theoretically retained as hard currency to pay for imports and to service hard currency debts,
- however restrictions are placed on the BOAL, which must first establish its 'socially verified needs', to retain only a specific amount of hard currency up to the maximum of 45.9% which has not already been surrendered,
- the difference between the allowed retention and 45.9% has to be sold within 2 days of receipt.

To establish the quotas of hard currency which each BOAL could retain they are required to submit their estimates to either one of the 22 General Associations to which they belong or to one of the 12 Special Associations set up for the vertically integrated BOAL's. By this means as fair and economically just distribution of hard currency supply as possible is organised.

Certain types of trade are exempt from these 'direct surrender' regulations. These include the following categories:

- border trade,
- barter arrangements,
- counter trade,
- long-term co-operation agreements.

This last exemption provides possibly the greatest incentive for Yugoslav enterprises to seek co-operation agreements with foreign partners. It also underlines the need in joint venture agreements to emphasise the export potential which proceeds from the technology transfer and co-operation. This is the only route by which any joint venture BOAL is permitted to retain in its entirety the hard currency earnings.

12.4. Customs duties

All imported goods, whether or not they fall under quotas or even when exempted from quotas by virtue of long term co-operation on joint venture agreements are still charged customs duties. Two laws regulate the application of these duties, the Customs Act (several versions have been published. The amendments are given in the Official Gazette, Nos. 10 in 1976, No. 36 in 1979 and No. 12 in 1982) in particular articles 34 to 45. The rates of duty are governed by the Customs Tariff Act (Official Gazette No. 27 of 1978).

The duties are all based on the value of the goods imported; a lower rate is applied to countries which have agreements with Yugoslavia having 'most-favoured-nation' clauses as is the case for the European Community. Tariffs for individual items can vary from 6% to 20% of the value of the goods. Temporary charges and surcharges can be applied if external conditions and market stability warrant it. As can be seen, both agricultural and certain manufactured items carry quite high rates of duty. There are additional charges of 7% added to these rates to cover administration and so-called tax adjustments. Agricultural products can bear fluctuating rates according to the state of domestic harvests and commodity prices.

The valuation of goods for customs purposes is normally according to the invoiced price or an assessed value if no invoice price is stated. The regulations for valuation are given in the Official Gazette No. 16 for 1982.

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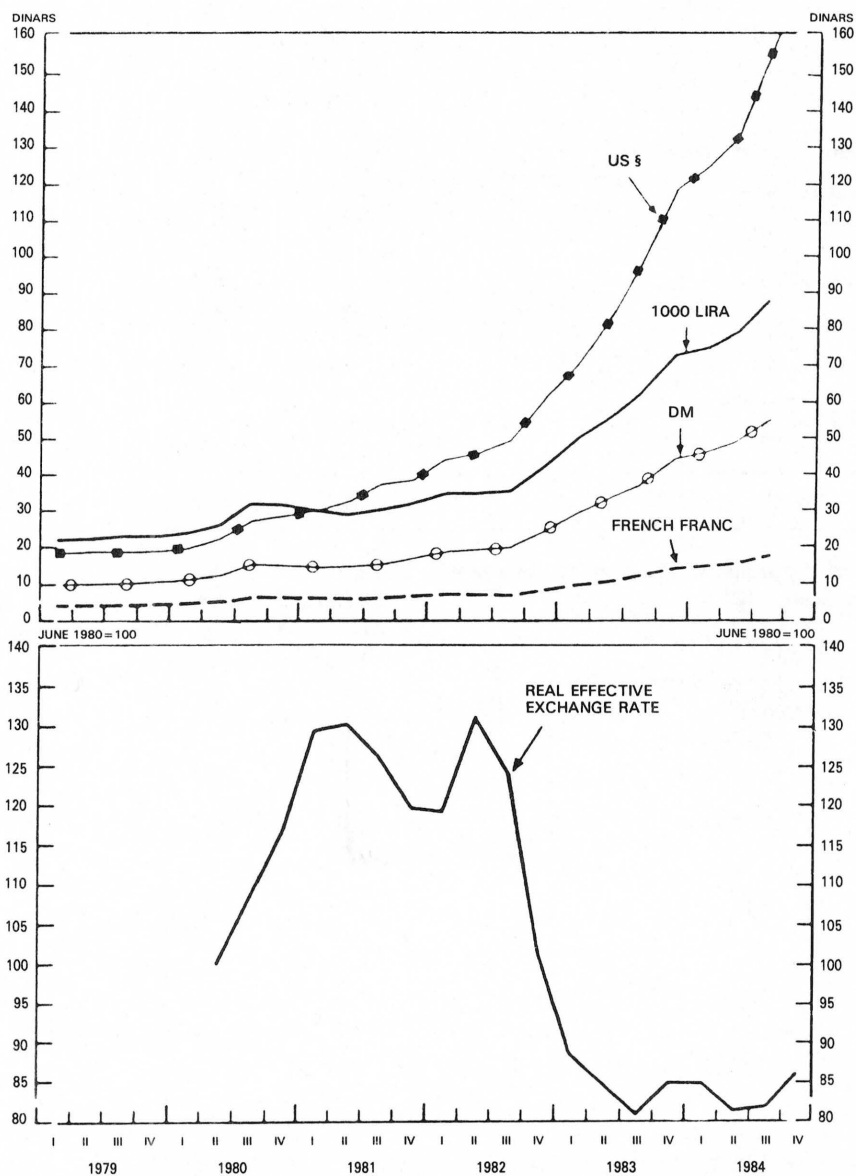
APPENDIX 1: YUGOSLAVIA IN FACTS AND FIGURES

Total land area	255800 sq. km.		
Cultivated and utilised land	143030 sq. km.		
Forest	93000 sq. km.		
Total Population (mid 1983)	22800,000		
According to regions:	<i>Population</i>	<i>Land Area</i>	<i>Density of Per-</i>
	<i>(000's)</i>	<i>(000's sq km)</i>	<i>sons</i>
Croatia	4,632	56.5	82
Bosnia-Herzegovina	4,223	51.5	83
Macedonia	1,967	25.7	76
Slovenia	1,914	20.3	94
Montenegro	600	13.8	43
Serbia	5,744	56.0	102
— Vojvodina	2,043	21.5	95
— Kosovo	1,677	10.9	154
TOTAL	22,800	255.8	89

Population of the major cities is as follows (1981 census)

Belgrade (Serbia)	1,455,000
Zagreb (Croatia)	763,000
Skopje (Macedonia)	503,000
Sarajevo (Bosnia-Herzegovina)	253,000
Novi-Sad (Vojvodina)	170,000

APPENDIX 2.1: DINAR EXCHANGE RATE



Sources: National Bank of Yugoslavia and OECD estimates

APPENDIX 2.2: INTEREST RATE MOVEMENTS

	1979	1980	1981	1982 June	October	1983 February	July	1984 May	July	October
CENTRAL BANK										
— Official discount rate	6	6	6	12	14	22	30	30	34	47
— Credit to banks (selection)	1-6	1-6	1-6	4-8	4-9	8-12	18-22	18-22	21-25	31-35
Loan Rates										
— Short term	6-11	6-12	6-12	12-17	13-20	24-30	30	39	48	
— Long term	7½-11	7-12	7-12	9-18	11-21	14-32	38	47	48	
— Consumer credits	12	12	12	16	18	20-25	20	30	34	
— Selection credits	2-7	2-7	2-7	8-18	9-17	9-30	22-38	22-42	27-42	
DEPOSIT RATES										
Time Deposits of OALS										
— Up to 1 year	2	2	2	2-4	2-4	7-9	7-9	30	34-39	47
— Over 1 year	3-6	3-6	3-6	8-12	8-15	17-23	17-23	35-38	42	52-58
Household savings accounts										
— Sight deposits	7½	7½	7½	7½	7½	7½	7½	7½	7½	7½
— Time deposits	9-10	9-10	9-10	11-15	13-20	12-28	12-28	30-38	34-42	47-55

Source OECD, Economic Survey of Yugoslavia (December 1984)

Note: Commercial Bank interest rates on 1.4.85: for 3 month deposits over 58%
2 year deposits over 66%

APPENDIX 3: ENERGY DATA

1. <i>Breakdown of energy consumption by type (1980)</i>	
Solid fuels	39%
Liquid fuels	47%
Natural gas	7.4%
Primary electric power	6.6%
2. <i>Oil and gas Production (1983)</i>	
Natural gas	2,090 million m ³
Crude oil processed from Yugoslavian Wells	4,125 tonnes
3. <i>Coal (1983)</i>	
Total Coast Mined	58,974 Thousand Tonnes
– Hard coal	392 Thousand Tonnes
– Brown coal	11,303 Thousand Tonnes
– Lignite	46,889 Thousand Tonnes
– Coke	3,440 Thousand Tonnes
4. <i>Electric Power (1983)</i>	
Hydrogenerated	21,693 Million kw
Thermal	40,172 Million kw
Nuclear	3,916 Million kw

APPENDIX 4: MINING

METALLIC ORE PRODUCTION (thousand tons, 1983)

Aluminium	283
Bauxite (1)	3.500
Chromium (1)	90
Copper (3)	168
Lead (4)	127
Manganese (2)	25
Nickel (3)	3.6
Silver (3)	0.12
Zinc (4)	80
Iron	5.018

MATERIALS PRODUCTION (thousand tons, 1983)

Steel	4.135
Cement	9.592

Notes:

- (1) Gross weight
- (2) Ores, concentrates
- (3) Recoverable metal content
- (4) As (3) but including mixed ore contents

APPENDIX 5: BIBLIOGRAPHY

- OECD Economic Surveys, Yugoslavia*, Paris, May 1983, December 1984.
- OECD Foreign Investment in Yugoslavia*, Paris, 1982.
- The Economy of Yugoslavia*, Singleton & Carter.
- Quarterly Economic Review of Yugoslavia*, Annual Supplement, Economist Intelligence Unit, London.
- Joint Ventures in Yugoslavia*, P.F. Artesian, Gower, Aldershot (U.K.), 1985.
- Workers' Management in Yugoslavia, Recent Developments and Trends*, edited by Nejden Posič, Stanislav Grozdanič, Milerad Padevič, ILO, Geneva, 1982.
- Joint Business Ventures in Yugoslavia between domestic and foreign firms: Development and Practice*, Miodrag Sukijasoëvič, ILYC, Belgrade, 1973.

APPENDIX 6: USEFUL ADDRESSES

6.1. Authorities (important Federal —)

FEDERAL COMMITTEE FOR ENERGY AND INDUSTRY, Omladinskih Brigada 1, YU 11070 Novi Beograd; tf: 11/195.511
FEDERAL SECRETARIAT FOR FOREIGN TRADE, Omladinskih Brigada 1, YU 11070 Novi Beograd; tf: 11/195.511
FEDERAL SECRETARIATE FOR THE MARKET AND ECONOMIC AFFAIRS, Bulevar AVNOJ-a 104, YU 11070 Novi Beograd.
FEDERAL PATENT OFFICE (SAVEZNI ZAVOD ZA PATENTE), Mirkova 1, YU 11000 Beograd; tf: 11.639.431; tx: 127.61

6.2. Banks

6.2.1. National and Republican bank

NATIONAL BANK OF YUGOSLAVIA (NARODNA BANKA JUGOSLAVIJE), Bulevar Revolucije 5, YU 11000 Beograd; tf: 11/332.000; tx: 131.457

6.2.2. Associated banks

BEOGRADSKA BANKA, Knez Mihailova 2-4, YU 11001 Beograd; tf: 11/624.455; tx: 117.12. *Representative offices:* Amsterdam, Berlin, Brussels, Dusseldorf, Frankfurt, Hanover, London, Milan, Paris, Stuttgart.

JUGOBANKA, 7 Jula 19-21, YU 11000 Beograd; tf: 11/630.022; tx: 111.45, 113.02. *Representative offices:* Amsterdam, Berlin, Dusseldorf, Frankfurt, Hamburg, Hanover, London, Mannheim, Milan, Munich, Nuremberg, Paris, Stuttgart.

KOSOVSKA BANKA, POB 105, YU 38001 Pristina; tf: 38/28.011; tx: 181.49. *Representative office:* Frankfurt.

LJUBLJANSKA BANKA, Trg Revolucija 2 (POB 594), YU 61001 Ljubljana; tf: 61/25.551; tx: 312.56. *Representative offices:* Amsterdam, Barcelona, Berlin, Brussels, Cologne, Copenhagen, Frankfurt, Hamburg, Hanover, Klagenfurt, London, Mannheim, Milan, Munich, Nuremberg, Paris, Stuttgart, Trieste, Weingarten.

SARAJEVA BANKA, Obala Vojvode, Stepe bulevar 19 (POB 166), YU 71000 Sarajevo; tf: 71/33.144 & 513.011; tx: 412.80 & 414.49. *Representative offices:* Frankfurt, London, Paris.

STOPANSKA BANKA, 11 Oktomvri 7 (POB 582), YU 91001 Skopje;

tf: 91/235.111; tx: 511.40. *Representative offices:* Frankfurt, London.

TITOGRAD BANKA, Bulevar Revolucije br. 1 (POB 183); YU 81001 Titograd; tf: 81/42.921; tx: 611.18. *Representative offices:* London, Milano.

VOJVODANSKA BANKA, Bulevar Marsala Tita 14 (POB 272), YU 21001 Novi Sad; tf: 21/57.222; tx: 141.29. *Representative offices:* Frankfurt, London.

6.2.3. Other commercial banks permitted to make foreign exchange transactions

(1) Croatia

DUBROVAČKA BANKA, Put Republike 32, YU 50000 Dubrovnik; tf: 50/277.77; tx: 275.40.

ISTARSKA BANKA, Trg Republike 2, YU 52000 Pula; tf: 52/229.56; tx: 252.41.

KOMERCIJALNA BANKA, Marta 3, YU 57000 Zadar; tf: 57/240.99; tx: 271.41.

PRIVSEDNA BANKA ZAGREB, Rackoga 6, YU 41000 Zagreb; tf: 41/410.822; tx: 211.20.

RIJEKA BANKA, Trg Palmira Togliattia, YU 51000 Rijeka; tf: 51/312.11; tx: 241.43.

SPLITSKA BANKA, Rudjera Boskoviča 16, YU 58000 Split; tf: 58/419.55; tx: 611.18.

ZAGREBAČKA BANKA, Paramlinska bulevar, YU 41000 Zagreb; tf: 41/519.522; tx: 214.63.

(2) Montenegro

INVESTICIONA BANKA TITOGRAD, Bulevar Revolucija 1, YU 81000; tf: 81/429.22; tx: 611.18.

(3) Serbia (incl. Vojvodina & Kosovo)

AGROBANKA, Sremska 5, YU 11000 Beograd; tf: 11/362.295; tx: 116.89.

BANKOS, Marsala Tita bulevar, YU 38000 Pristina; tf: 38/341.11; tx: 181.49.

INVESTBANKA, Terazije 7-9, YU 11000 Beograd; tf: 11/335.201; tx: 111.47.

JK BANKA, Masarikova 5/VII, YU 11001 Beograd; tf: 11/362.822; tx: 122.24.

KOMERCIJALNA BANKA, Trg Marsala Tita 6, YU 26000 Pancevo; tf: 26/445.55; tx: 131.31.

SLAVONSKA BANKA, Bulevar JNA 29, YU 54000 Osijek; tf: 54/250.22; tx: 282.35.

(4) Slovenia

KREDITNA BANKA MARIBOR, Vita Kraigherja 4, YU 62000 Maribor; tf: 62/274.41; tx: 331.67.

6.2.4. Export bank

YUGOSLAV BANK FOR INTERNATIONAL ECONOMIC COOPERATION (YUBMES),
Masarikova 5, YU 11001 Beograd;
tf: 11/131.457; tx: 117.10.

6.3. Chambers of Economy

6.3.1. Federal

PRIVREDNA KOMORA JUGOSLAVIJE

Yugoslav Chamber of Economy
11000 BEOGRAD, Terazije 15-23
POB 1003
Phone: 339.461
Cable: JUGOKOMORA BEOGRAD
Telex: 11.638 yu jugkom

6.3.2. Republics and Autonomous Provinces

(1) Bosnia-Herzegovina

PRIVREDNA KOMORA SR BOSNE I HERCEGOVINE

Economic Chamber of SR BiH
71000 SARAJEVO, Mis Irbina 13
Phone: 071/38.066
Telex: 41.250

OSNOVNA PRIVREDNA KOMORA

Economic Chamber
71000 SARAJEVO, Augusta Cesarca 10
Phone: 71/25.921

OSNOVNA PRIVREDNA KOMORA

Economic Chamber
77000 BIHAĆ, Maršala Tita br. 4/VI
Phone: 77/22.148
Telex: 45.874

OSNOVNA PRIVREDNA KOMORA

Economic Chamber
78000 BANJA LUKA, Svetozara Markovića b.b.

Phone: 78/23.811

Telex: 45.297

OSNOVNA PRIVREDNA KOMORA

Economic Chamber
74000 DOBOJ, Ismeta Kapetanovića 10
Phone: 74/21.980
Telex: 44.537

OSNOVNA PRIVREDNA KOMORA

Economic Chamber
79000 MOSTAR, Mostarskih bataljona 27
Phone: 79/21.053
Telex: 46.242

OSNOVNA PRIVREDNA KOMORA

Economic Chamber
75000 TUZLA, Gavrila Principa 4

Phone: 75/33.922

Telex: 44.182

OSNOVNA PRIVREDNA KOMORA

Economic Chamber
72000 ZENICA, Sestara Ditrjih 18
Phone: 72/21.986

(2) Croatia

PRIVREDNA KOMORA HRVATSKE SR

Economic Chamber of SR Croatia
41000 ZAGREB, Ruzveltov trg 2
Phone: 41/443.422
Telex: 21.524

PRIVREDNA KOMORA ZAGREB

Economic Chamber of Zagreb
41000 ZAGREB, Ilica 49
Phone: 41/442.811
Telex: 21.548

PRIVREDNA KOMORA SLAVONIJE I BARANJE

Economic Chamber of Slavonia and Baranja
54000 OSIJEK, Bulevar JNA 13
Phone: 54/25.322
Telex: 28.183

PRIVREDNA KOMORA DALMACIJE

Economic Chamber of Dalmacia
58000 SPLIT, Saveznička obala 4
Phone: 58/47.655

PRIVREDNA KOMORA RIJEKA

Economic Chamber of Rijeka
51000 RIJEKA, Rade Končara 44
Phone: 51/22.156
Telex: 24.326

PRIVREDNA KOMORA KARLOVAC

Economic Chamber of Karlovac
47000 KARLOVAC, Marinkovićeve 19b
Phone: 47/22.088

PRIVREDNA KOMORA VARAŽDIN

Economic Chamber of Varaždin
42000 VARAŽDIN, Preradovićeve 17
Phone: 42/44.166

PRIVREDNA KOMORA SISAK

Economic Chamber of Sisak
44000 SISAK, Kranjčevićeva 14
Phone: 44/22.683

PRIVREDNA KOMORA BJELOVAR

Economic Chamber of Bjelovar
43000 BJELOVAR, Preradovićeve bb
Phone: 43/21.055
Telex: 23.388

(3) Macedonia

STOPONSKA KOMORA NA SR MAKEDONIJA

Economic Chamber of SR Macedonia
91000 SKOPJE, Veljka Vlahovića 25
Phone: 91/229.211
Telex: 51.438

(4) Kosovo

PRIVREDNA KOMORA SAP KOSOVA
Economic Chamber of the Autonomous
Region of Kosovo
38000 PRIŠTINA, Maršala Tita 20
Phone: 38/24.055
Telex: 18.141

(5) Serbia

PRIVREDNA KOMORA SRBIJE
Economic Chamber of SR Serbia
11000 BEOGRAD, Generala Ždanova 13-15
Phone: 11/340.611
Telex: 11.275

PRIVREDNA KOMORA BEOGRADA
Economic Chamber of Belgrade
11000 BEOGRAD, Kneza Miloša 12
Phone: 11/641.355

REGIONALNA PRIVREDNA KOMORA NIŠ
Economic Chamber of Niš
18000 NIŠ, Mike Paligorčića 2
Phone: 18/23.177
Telex: 16.125

**REGIONALNA PRIVREDNA KOMORA
KRAGUJEVAC**
Economic Chamber of Kragujevac
34000 KRAGUJEVAC, Moše Pijade 10
Phone: 34/66.955

**REGIONALNA PRIVREDNA KOMORA
KRALJEVO**
Economic Chamber of Kraljevo
36000 KRALJEVO, Omladinska 2
Phone: 36/21.766
Telex: 17.618

**REGIONALNA PRIVREDNA KOMORA
LESKOVAC**
Economic Chamber of Leskovac
16000 LESKOVAC, Stojana Ljubića 12
Phone: 16/20.40

**REGIONALNA PRIVREDNA KOMORA
ZAJEČAR**
Economic Chamber of Zaječar
19000 ZAJEČAR, Maršala Tita 37/III
Phone: 19/25.419

**REGIONALNA PRIVREDNA KOMORA
TITOVO UŽICE**
Economic Chamber of Titovo Užice
31000 TITOVO UŽICE, Maršala Tita 54
Phone: 31/21.855

**REGIONALNA PRIVREDNA KOMORA
POŽAREVAC**
Economic Chamber of Požarevac
12000 POŽAREVAC, Drinska 2
Phone: 12/22.243

**REGIONALNA PRIVREDNA KOMORA
VALJEVO**
Economic Chamber of Valjevo

14000 VALJEVO, Karadordeva 64/VIII
Phone: 14/21.133

(6) Slovenia

GOSPODARSKA ZBORNICA SR SLOVENIJE
Economic Chamber of SR Slovenia
61000 LJUBLJANA, Titova 19
Phone: 61/28.211

**MEDOBČINSKA GOSPODARSKA ZBORNICA
V CELJU**
Economic Chamber
63000 CELJE, Ulica XIV, Divizije 14
Phone: 63/23.702

**MEDOBČINSKA GOSPODARSKA ZBORNICA
ZA KOROŠKO**
Economic Chamber of Koroška
62370 DRAVOGRAD, Mariborska 65
Phone: 62/83.370

**MEDOBČINSKA GOSPODARSKA ZBORNICA
KOPER**
Economic Chamber of Koper
66000 KOPER, Ljubljanska 3

**MEDOBČINSKA GOSPODARSKA ZBORNICA
ZA GORENJSKO**
Economic Chamber of Gorenjsko
64000 KRANJ, Cesta Julia 16-A
Phone: 64/23.069

**MEDOBČINSKA GOSPODARSKA ZBORNICA
POSAVJA**
Economic Chamber of Posavja
68270 KRŠKO, Zdolska 17
Phone: 68/71.364

**MEDOBČINSKA GOSPODARSKA ZBORNICA
ZA PODRAVLJE**
Economic Chamber of Podravlje
62000 MARIBOR, Čafova 7
Phone: 62/28.371

**MEDOBČINSKA GOSPODARSKA ZBORNICA
ZA POMURJE**
Economic Chamber of Pomurje
69000 MURSKA SOBOTA, Zvezna 12
Phone: 69/22.621

**MEDOBČINSKA GOSPODARSKA ZBORNICA
ZA SEVERNO PRIMORSKO OBMOČJE**
Economic Chamber
65000 NOVA GORICA, Kidričeva 11
Phone: 65/23.430

**MEDOBČINSKA GOSPODARSKA ZBORNICA
ZA DOLENJSKO**
Economic Chamber of Dolenjsko
68000 NOVO MESTO, Novi Trg 9
Phone: 68/23.733

**MEDOBČINSKA NOTRANJSKA
GOSPODARSKA ZBORNICA**
Economic Chamber
66230 POSTOJNA, Ljubljanska 5a
Phone: 66/21.251

**MEDOBČINSKA GOSPODARSKA ZBORNICA
PREVIRSKIH OBČIN**

Economic Chamber
61420 TRBOVLJE, Cesta Oktobarske
revolucije 31
Phone: 61/21.780

**SAVINSKO-SALESKA GOSPODARSKA
ZBORNICA**

Economic Chamber
63320 VELENJE, Titov trg 1
Phone: 63/851.200

(7) Vojvodina

PRIVREDNA KOMORA SAP VOJVODINE

Economic Chamber of the Autonomous
Region of Vojvodina
21000 NOVI SAD, Bulevar Maršala Tita 23
Phone: 21/57.022
Telex: 14.107

6.3.3. Representations abroad

(1) Belgium

CHAMBRE ECONOMIQUE DE YUGOSLAVIE

Représentation en Belgique et au
Luxembourg
WTC Tour 1, 19e, Boulevard Emile
Jacqmain 162
B 1000 BRUXELLES
Phone: 2/217.74.50 & 217.75.02
Telex: 23.996

(2) Denmark

YUGOSLAV CHAMBER OF ECONOMY

Representation in Denmark
Vesterbrogade 17, mezz.
DK 1620 KØBENHAVN V
Phone: 2/313.107
Telex: 27.374

(3) France

**DELEGATION DE LA CHAMBRE
ECONOMIQUE DE YUGOSLAVIE**

69-71, Avenue Raymond Poincaré
F 75116 PARIS
Phone: 1/704.92.76 & 704.87.39
Telex: 611.904

(4) Germany

JUGOSLAWISCHE WIRTSCHAFTSKAMMER

Vertretung für die Bundesrepublik
Deutschland
Escherheimer Landstraße 61
D 6 FRANKFURT A/MAIN
Phone: 611/551.910 & 552.440
Telex: 414.053

(5) Greece

YUGOSLAV CHAMBER OF ECONOMY

Representation in Greece
Valaoritou 17

GR ATHINIA

Phone: 1/618.420
Telex: 215.124

(id.: Thessaloniki)
Tsimiski 6 (POB 136)
GR THESSALONIKI

(6) Ireland: see United Kingdom

(7) Italy

**CAMERA DELL'ECONOMIA DELLA
YUGOSLAVIA**

Rappresentanza di Bari
Via Dante 33
I 70121 BARI
Phone: 80/214.007
Telex: 810.167
Rappresentanza di Milano
Via Senato 13/II
I 20121 MILANO
Phone: 2/702.635 & 702.808

Rappresentanza di Trieste
Via Macchiavelli 28
I TRIESTE

(8) Luxemburg: see Belgium

(9) Netherlands

YUGOSLAV CHAMBER OF ECONOMY

Vertegenwoordiging voor Nederland
Stadhouderskade 30
NL AMSTERDAM
Phone: 20/72.88.88
Telex: 13.607

(10) United Kingdom

YUGOSLAV CHAMBER OF ECONOMY

Trade Promotion Office
Grown House
143/147 Regent Street
GB LONDON W1R 7LB
Phone: 1/734.25.81
Telex: 27.552

6.4. Embassies

**6.4.1. Yugoslav embassies in the EEC
capitals**

(1) Belgium

AMBASSADE DE LA RSF DE YUGOSLAVIE

Avenue Emile De Mot 11
B 1050 BRUXELLES
Phone: 2/647.57.81

(2) Denmark

EMBASSY OF THE SFR OF YUGOSLAVIA

Svanevaenget 26
DK 21000 KØBENHAVN
Phone: 1/297.161

(3) France

AMBASSADE DE LA RSF DE YUGOSLAVIE

54, rue de la Faisanderie
F 75116 PARIS
Phone: 1/504.05.05
Telex: 610.846

(4) Germany

BOTSCHAFT DER SFR YUGOSLAWIEN

Schlossallee 5
D 5300 BONN 2
Phone: 228/344.051
Telex: 885.530

(5) Greece

AMBASSADE DE LA RSF DE YUGOSLAVIE

106, Vassilissis Sofias
GR ATHINAI
Phone: 1/774.43.44

(6) Ireland: see United Kingdom

(7) Italy

AMBASCIATA DELLE RSF DI JUGOSLAVIA

Via dei Monti Parioli 20
I 00197 ROMA
Phone: 6/360.07.96

(8) Luxemburg: see Belgium

(9) Netherlands

AMBASSADE VAN DE SFR JOEGOSLAVIE

Groothertoginnelaan 30
NL 2517 DEN HAAG
Phone: 70/632.397
Telex: 331.99

(10) United Kingdom

EMBASSY OF THE SFR OF YUGOSLAVIA

5-7 Lexham Gardens
GB LONDON W8 5JO
Phone: 1/370.61.05

(11) European Economic Community

MISSION DE LA RSF DE YUGOSLAVIE

Avenue Louise 250
B 1050 BRUXELLES
Phone: 2/649.83.49

6.4.2. Embassies of the EEC-countries in Yugoslavia

(1) Belgium

Proleterskih Brigada 18
YU 11000 BEOGRAD
Phone: 11/330.016(7), 330.937

(2) Denmark

Sekspirova 5
YU 11000 BEOGRAD
Phone: 11/667.826 & 668.388

(3) France

Pariska 11
YU 11000 BEOGRAD

Phone: 11/636.555, 636.200, 636.478,
636.311 & 636.243

(4) Germany

Kneza Milosa 74/76
YU 11000 BEOGRAD
Phone: 11/645.755

(5) Greece

Ognjena Price 50
YU 11000 BEOGRAD
Phone: 11/442.400 & 442.445

(6) Ireland: see United Kingdom

(7) Italy

Bircaninova 11
YU 11000 BEOGRAD
Phone: 11/657.925, 659.722, 659.743 &
658.856

(8) Luxemburg: see Belgium

(9) Netherlands

Simina 29
YU 11000 BEOGRAD
Phone: 11/626.699

(10) United Kingdom

General Zdanova 46
YU 11000 BEOGRAD
Phone: 11/645.034, 645.043 & 645.087

(11) European Economic Community

Kablarska 29
YU 11000 BEOGRAD
Phone: 11/651.458

6.5. Investment corporation

International Investment Corporation of Yugoslavia

Beograd:

Zmaj Jovina 6/I
YU 11000 BEOGRAD
Phone: 11/633.588
Telex: 121.70

Ljubljana:

Beethovnova 7/I
YU 61000 LJUBLJANA
Phone: 61/20.535
Telex: 312.56

London:

14/16 Cockspur Street
GB LONDON SW1Y 5BL
Phone: 1/930.75.78
Telex: 916.445.

Luxemburg:

13, Boulevard de la Foire
L LUXEMBOURG

Sarajevo:

JNA 40/I
YU 71000 SARAJEVO
Phone: 71/23.080
Telex: 41.336

Skopje:

Zgrada Banke/III Bulevar Mirce Acer bb
YU 91000 SKOPJE
Phone: 91/30.945
Telex: 51.192

Zagreb:

Savska Cesta 66/VII
YU 41000 ZAGREB
Phone: 41/510.230 & 510.240
Telex: 215.79

6.6. Miscellaneous (trade)**6.6.1. Commercial insurance companies****Insurance Association 'Croatia'**

Savska Cesta 41
YU 41000 ZAGREB
Telex: 215.87

Insurance Association 'Dunav'

Kneza Mihaila 6
YU 11000 BEOGRAD

The Sava Insurance Association

Miklosiceva 19
YU 61000 LJUBLJANA

6.6.2. Marketing companies**Interpublic**

Meduliceva 2
YU 41000 ZAGREB
Telex: 216.62

Ozeha

Trg Republike 5
YU 41000 ZAGREB
Phone: 41/424.330
Telex: 216.63

Yugoslaviapublic

Knez Mihailova 10
YU 11000 BEOGRAD
Phone: 11/633.266
Telex: 124.65

Zavod na Trzisna Istrazivanja (ZIT)

Milana Mikanca 16
YU 41000 ZAGREB
Phone: 41/410.299
Telex: 212.94

6.6.3. Office rental**Diplomatsko Stambeno Preduzecce**

Serdar Jola 17
YU 11000 BEOGRAD
Phone: 11/648.433

Hotel Belgrado Intercontinental

Milentija Popovica Ulica
YU 11070 NOVI BEOGRAD
Phone: 11/631.084

Hotel Jugoslavia

Beogradski Put 3
YU 11070 NOVI BEOGRAD
Phone: 11660.222
Telex: 113.49

Poslovni Postor

Njegosera Ulica 84
YU 11000 BEOGRAD
Phone: 11/540.170

Sava Congress Center

Milentija Popovica Ulica 19
YU 11070 NOVI BEOGRAD
Phone: 11/635.111
Telex: 120.42

6.6.4. Patent offices**Patentna Pizar**

Copova 14
YU 61000 LJUBLJANA

Technozavod

Dure Dakovica 84
YU 11000 BEOGRAD

Zavod za Produktionist

Trg Republike 1
YU 41000 ZAGREB

6.6.5. Sales representation**Privredna Komora Jugoslavije**

Department Representation of Foreign
Companies
Terazije 23
YU 11000 BEOGRAD
Phone: 11/339.461
Telex: 166.38

6.6.6. Yugoslav general associations**Opšte udruženje za vodoprivredu jugoslavije**

(General association for water resources
engineering of Yugoslavia)
11000 BEOGRAD Terazije 23
Phone: 336.251, 339.451

**Opšte udruženje šumarstva i industrije za
preradu drveta, celuloze i papira Jugoslavije**

(General association for forestry and the
wood, pulp and paper converting industry of
Yugoslavia)
11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

**Opšte udruženje duvanske privrede
Jugoslavije**

(General association for the tobacco industry
of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje grafičke delatnosti Jugoslavije
(General association of printing industry of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje hemijske industrije i industrije gume Jugoslavije
(General association for the chemical and rubber industries of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje kožarskopreradivačke industrije Jugoslavije

(General association of the leather processing industry of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje gradjevinarstva i industrije gradjevinskog materijala Jugoslavije

(General association of the construction industry of Yugoslavia)

11000 BEOGRAD Bulevar Revolucije 84
Phone: 431.122

Opšte udruženje rudnika i industrije nemetala Jugoslavije

(General association of nonmetals mining and industry of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje rudnika uglja Jugoslavije

(General association of coal mines of Yugoslavia)

11000 BEOGRAD Moše Pijade 13
Phone: 343.066

Opšte udruženje za poljoprivredu i prehrambenu industriju Jugoslavije

(General association for agriculture and the food industry of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje crne metalurgije Jugoslavije
(General association of iron metallurgy of Yugoslavia)

11000 BEOGRAD Kolarčeva 7
Phone: 345.201

Opšte udruženje industrije prerade metala Jugoslavije

(General association of the metal processing industry of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje tekstilne i odevne industrije Jugoslavije

(General association of the textile and the readywear clothing industry of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje trgovine Jugoslavije

(General association of retail and wholesale trade of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje saobraćaja Jugoslavije

(General association for the transportation industry of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje obojenih metala Jugoslavije

(General association of nonferrous metals of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje turističke privrede Jugoslavije

(General association for the tourist industry of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje organizacija naftine privrede Jugoslavije

(General association of Organizations in the oil industry of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 336.251, 339.461

Opšte udruženje zadružnih saveza Jugoslavije

(General association of cooperative unions of Yugoslavia)

11000 BEOGRAD Bulevar Revolucije 84
Phone: 454.482

Spoljnotrgovinska arbitraža pri privrednoj komori Jugoslavije

(Foreign trade arbitrage at the Economic Chamber of Yugoslavia)

11000 BEOGRAD Terazije 23
Phone: 624.982

APPENDIX 7: SETTLEMENT OF DISPUTES BETWEEN FOREIGN AND YUGOSLAVIAN PARTNERS

Disputes are often referred to the Court of Arbitration of Foreign Trade of the Chamber of the Economy in Belgrade. This was established in 1947 as an independent institution and has a good reputation for objectivity.

It has agreements and good relations with a number of other foreign counterparts such as those in Paris, Amsterdam, London and Moscow. It applies the generally accepted principles of laws applying Yugoslav laws for cases not covered by international usage.

The cases which the court of arbitration of Belgrade is permitted to handle are defined by law and include 'disputes of economic/commercial nature resulting from commercial relationships between Yugoslav organisations and foreign persons or organisations where both parties accept the courts competence'.

A separate procedure of reconciliation is also available. This can be requested by letter to the Secretary of the court. A proposal for reconciliation needs to include detailed information and the opinion of the proposing party and needs to be supported with relevant documents.

The fact of introducing a demand for reconciliation engages both parties to recognise the courts authority. A commission is then formed with a representative of each party and a president chosen by the other two or if no agreement can be reached the president of the court. The foreign party can name a foreign citizen to represent him. Furthermore, the parties can decide to ask the president or a member of the presidency or another official to effect the reconciliation.

The reconciliation committee studies the document, listens to representation from the party and makes suggestions. In case of agreement the conclusions are immediately applied. In case of disagreement neither party is engaged by its previous suggestions.

Arbitration can also be requested by letter to the secretariat of the court. The request must be supported by originals of relevant documents. The secretariat gives the file to the defending party who has 30 days to reply.

The dispute can be regulated by the commission of 3 arbitrators or by a single one. Unless other arrangements are specifically made so long as the value of the dispute is less than 200,000 dinars a single arbitrator will be appointed.

One arbitrator is named by each party and the 2 arbitrators choose the third one who is president. The regulations of the United Commissions for Legislation and International Trade can be applied by the agreement of both parties.

The arbitration committee takes its decisions on the basis of simple majority. It is definitive and without appeal even if one arbitrator refuses to sign.

The arbitrators apply whatever law has been specified in any relevant agreement or whatever law appears appropriate.

APPENDIX B/1: THE LAW ON INVESTMENT OF RESOURCES OF FOREIGN PERSONS IN DOMESTIC ORGANIZATIONS OF ASSOCIATED LABOUR (1)

I. Basic provisions

Article 1

The present Law regulates investment of resources of foreign persons in domestic organizations of associated labour (2) for the purposes of ensuring broader and longer-term inclusion in the international division of labour, procuring modern technology, increasing exports and the supply of the domestic market, decreasing imports and furthering the work and business of domestic organizations of associated labour.

Article 2

A foreign person may invest resources in a domestic organization of associated labour with a view to realizing joint business aims and interests, with joint risk sharing and the right to share in income realized through joint business (hereinafter: joint venture).

As part of his right to share in income realized by a joint venture, the foreign person shall be entitled to the return of the value of resources invested and to compensation for the use of such resources.

Article 3

Investment of resources of a foreign person in a domestic organization of associated labour shall, as a rule, be of a long-term nature.

Relations arising from investment of resources by a foreign person shall be stipulated by contract for the period of time requires for the achievement of the joint business aims for which the resources are invested.

Article 4

Mutual relations between parties to a joint venture shall be regulated by a contract for investment of resources by the foreign person in the domestic organization of associated labour involved (hereinafter: joint venture contract), which must be made in writing.

A joint venture contract shall be subject to approval by the federal department (3) responsible for energy and industry.

A joint venture contract which has not been made in writing and which has not been approved by the federal department responsible for energy and industry shall not produce any legal effect.

Joint venture contracts are subject to approval by one federal agency only: the Federal Committee on Energy and Industry.

(1) The Law on Investment of Resources of Foreign Persons in Domestic Organizations of Associated Labour was published in *Službeni list SFRJ*, No. 18/78, and amendments and supplements thereto in *Službeni list SFRJ*, No. 5/85.

In the revised text, which is given here in full, only the amendments and supplements (*Službeni list SFRJ*, No. 64/84) which are printed in fat letters are commented.

(2) ORGANIZATION OF ASSOCIATED LABOUR. This is a generic term for those economic and non-economic organizations which carry out activities with socially-owned means of production and resources, and which are organized on a self-managing basis. Organizations of associated labour include: basic organizations of associated labour, work organizations, and composite organizations of associated labour.

ASSOCIATED LABOUR is a term used to denote all institutional forms of the association of workers who, organized on self-managing foundations, perform economic and other social activities with socially-owned resources; this term also denotes other forms of the pooling of labour and resources, and also their integration into a uniform system of associated labour.

(3) FEDERAL ORGANS OF ADMINISTRATION include the following bodies: **federal secretariats** (for foreign affairs, national defence, internal affairs, finance, foreign trade, the market and general economic affairs, the judiciary and the organization of federal administration, and information), **federal committees** (for energy and industry, agriculture, transportation and communications, labour, health and social welfare, war veterans and military invalids, legislation), **federal boards** (customs, flight control, radio-communications) and **federal inspectorates** (market, foreign exchange, and airways).

Article 5

The rights of a foreign person concerning resources invested in a domestic organization of associated labour shall enjoy protection as specified by the present Law.

The rights of a foreign person determined by contract, the present Law or other regulations concerning resources invested by the foreign person in a domestic organization of associated labour, may not be curtailed by law or other regulations once the contract determining such rights has become valid.

Article 6

If after the date on which a joint venture contract became valid the regulation governing such a joint venture are amended or **new measures of current economic policy regarding such a joint venture are determined**, the rights of the foreign person involved regarding the resources invested by him in the domestic organization of associated labour concerned shall be governed by the provisions of the contract and by the regulations which were in force on the date the joint venture contract became valid, if this is more favourable for the foreign person or, unless the contracting parties have in some other way regulated certain questions by mutual agreement, by the provisions of the amended regulations.

The provision of section 1 of this Article shall not apply to taxes and other assessments payable by organizations of associated labour to socio-political communities, nor to contributions (1) payable to self-management communities of interest (2).

The words 'or measures of current economic policy adopted' have been added to Article 6 of the original Law as an explanation of the notion of 'another enactment' contained in Article 27, section 4, of the Federal Constitution. The Federal Government (3) frequently regulates matters referred to in Article 281, section 1, point 5, of the Federal Constitution (economic relations) by enactments which are neither laws nor legal provisions in the regulatory sense, but which have the strength of laws or other legal provisions. Such enactments may also indirectly influence the performance of contracts.

The aim of the provisions of section 1 of this Article is better to protect foreign investors against any unfavourable effects of legal provisions enacted after a joint venture contract has become valid. In addition to 'laws and other regulations', such protection has been extended to measures of current economic policy, because there have been instances of such measures changing the business conditions of organizations in which foreign capital was invested and thereby also the position of foreign investors.

Yugoslav laws and other legal provisions which regulate economic relations with foreign countries allow for freedom of operation of organizations of associated labour and foreign firms, provided that such operations do not adversely affect Yugoslavia's external liquidity. In recent years, owing to the balance-of-payments deficit, the foreign trade regime has several times been corrected by measures of current economic policy. This has often affected the implementation of joint venture contracts. After this change in the Law, no organ, be it legislative or executive, may enact a rule or adopt a measure of current economic policy which would infringe the rights of foreign persons regarding the

(1) CONTRIBUTIONS are allocations made from the income of organizations of associated labour, workers' personal incomes and/or citizens' revenues on the basis of self-managing agreements and social compacts (as contrasted to taxes and other dues collected by the state, which are regulated by law). Resources thus collected are used to finance collective needs in the fields of education, science, culture, health, social security, etc.

(2) SELF-MANAGING COMMUNITIES OF INTEREST are associations formed by working people through their self-managing organizations and communities for the purpose of satisfying their personal and collective needs, especially in the fields of education, science, culture, health, social security, and the like. Their aim is to link the interests of those who perform specific public services with the interests of those who use such services. In such communities service performers and service users decide together and on an equal footing on the performance of such services, formulate their development policies, and regulate mutual rights, obligations and responsibilities. Self-managing communities of interest may be formed on the same principles also in the fields of housing, energy generation, water management, transport, etc.

(3) SOCIO-POLITICAL COMMUNITIES are political-territorial units: communes, regional communities, autonomous provinces, republics and the Federation.

SOCIALIST REPUBLICS are federal units of the Socialist Federal Republic of Yugoslavia. There are altogether six republics: Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia (within which there are two autonomous provinces — Kosovo and Vojvodina), and Slovenia.

SOCIALIST AUTONOMOUS PROVINCES. There are two such provinces, Kosovo and Vojvodina. They make part of the Socialist Republic of Serbia and their autonomous rights are regulated by the Federal Constitution and the Constitution of the Republic of Serbia.

resources invested in Yugoslav organizations of associated labour. If such a regulation or measure of current economic policy is adopted with respect to other economic factors and regarding other business transactions, it will not be applied insofar as it diminished the rights of foreign persons. Section 2 of this Article explicitly excludes protection of foreign investors from changes in regulations introducing new taxes and dues payable to socio-political communities and self-managing communities of interest. In this connection it should be said that taxes in Yugoslavia are not progressive but proportional. The new Social Compact on the Foundations of Tax Policy has introduced uniform rates for taxing the profits of foreign investors — up to 10 per cent. Before the conclusion of this Compact the rates differed by republic and autonomous province and ranged from 10 to 35 per cent.

Article 7

A joint venture contract shall in particular regulate:

- (1) Aims of the investment of resources and the purpose, terms and manner of utilization of such resources,
- (2) Total amount of **required** resources to be invested in the joint venture and, out of this total, the amount of resources to be invested by the domestic organizations of associated labour and the amount of resources to be invested by the foreign person,
- (3) Manner of determining the part of income (1) of the domestic organization of associated labour in which the foreign person shares,
- (4) Basic elements and scales for determining the share of the foreign person in the income of the domestic organization of associated labour,
- (5) Terms and manner and time-limits for paying the share of the foreign person in the income of the domestic organization of associated labour,
- (6) Terms and manner of and time-limits for returning the value of the resources invested,
- (7) Mutual obligations of the contracting parties in the event of business losses, and other obligations concerning risk bearing,
- (8) Composition and powers of a joint business board and mode of its election,
- (9) Mode of settlement of mutual disputes,
- (10) Mode of securing foreign exchange and other resources for paying to the foreign person the amount due to him on account of his share in income, and for the return of the value of resources invested.

A domestic organization of associated labour and a foreign person may establish standards for material costs and criteria for determining depreciation rates and standards for current labour (2) required for the manufacture of products or the rendering of services involved in the joint venture (number of staff and their vocational qualifications, time coefficients and other standards concerning the joint venture).

The word 'required' (section 1, point 2) added in the amended Law means the obligation to round off investments in a joint venture in line with the feasibility study and the profitability of the joint project. The Law does not specify any quantifications, but by the logic of joint ventures it is assumed that the 'required' resources are those which ensure the start-up and continuation of production in the stipulated period and the achievement of the parties' aims.

However, it is no longer necessary for the contracting parties to secure all resources required to attain the aims of their joint venture, or for the construction of facilities to be built by resources invested in the joint venture. It is sufficient to assure an amount which, according to economic standards, provides a basis for securing the necessary resources, even by credits.

This has eliminated previous problems in connection with the financing of joint ventures, because it was not clear whether or not the contracting parties were bound to secure the entire amount of necessary resources exclusively from their participation, or the shortfalling part could be secured by credits (for more detail on credits see comments on Article 8).

It is also significant to note that the addition of the word 'required' in this section was not aimed at imposing a statutory obligation upon the foreign party to make additional investments when for any reason more resources are required than originally stipulated. By no provision (not even that

(1) INCOME. Under the Yugoslav economic system income as an economic category differs from the corresponding category in Western and other countries. The following scheme applies: gross income minus material costs and depreciation = income; income minus social and contractual obligations (allocations) = net income. Net income is further divided and allocated to (a) net personal income, (b) the 'business fund' (savings), (c) the reserve fund, and (d) the collective consumption fund (the worker's welfare fund).

(2) CURRENT LABOUR is the work contribution of every employed person in the current business year and serves for determining the largest part of his or her personal income.

contained in Article 7, section 1) does the Law question the principle of the limited liability of foreign investors.

Consequently, if in the course of the implementation of a joint venture contract the need arises for resources additional to those originally stipulated — either because of an overrun of the preliminary investment estimates or to improve or increase production, the foreign investor is liable only up to the amount of the resources he undertook to invest by contract. He is not liable in excess of this amount and it is a matter for him to decide whether he is willing, and if so how, to solve with his Yugoslav partner the problem of additional financing of the joint venture.

New in section 2, in relation to the previous text of the Law, is the provision specifying that a Yugoslav organisation and a foreign person may establish 'standards for current labour required for the manufacture of products or the rendering of services involved in the joint venture'. This provision does not mean that it is possible by contract definitively to determine the number of workers and their personal incomes (salaries) for a particular production or specific production operations. The number of workers and their personal incomes are always a matter for the domestic organization of associated labour to decide. This is the sphere of so-called 'inalienable rights of workers'. However, a foreign party has on the basis of this provision the right to demand that the income for the organization of associated labour involved be not allocated for personal incomes in excess of the stipulated standards for current labour, or that the amounts exceeding the stipulated standards be not charged to the part of the next income of the joint venture (profit) accruing to the foreign party (Article 20, section 2).

Article 8

A joint venture contract may provide that the domestic organization of associated labour and the foreign person involved may obtain part of the resources required for financing the joint venture from a credit or loan.

The amount of the credit or loan referred to in section 1 of this Article shall not exceed the amount invested by the contracting parties.

The credit or loan referred to in section 1 of this Article shall be repaid from the income generated by the joint venture prior to its distribution between the contracting parties.

If the income generated by a joint venture is not sufficient for repaying the credit or loan referred to in section of this Article, the contracting parties shall provide resources for repaying the credit proportionally to stipulated risk of the joint venture.

This Article has for the first time introduced into Yugoslav joint venture legislation provisions regulating the use of credits or loans as possible sources for financing joint ventures in addition to capital invested by the parties.

Although clear at first glance, this provision has prompted potential investors to raise several questions, of which the following deserve special attention:

- which party or parties may be the borrower of such loans;
- must two investing parties guarantee to repay the loan or credit if the joint venture entity cannot;
- will it in practice be possible to use a higher proportion of borrowed funds in case where the economics justify it;
- how will the repayment of credits or loans be accounted between the parties.

Before answering these questions, it is necessary to say a few words on the nature of these specific credits or loans.

A credit or loan (in further text: credit) as referred to in section 1 of this Article is a 'joint credit' of the investing parties, which after being used for the joint venture, yields additional net income of the joint venture.

Consequently, this provision does not relate to all credits that will be taken by the Yugoslav organization of associated labour in which resources are invested, but exclusively to those credits which are taken on the basis of an agreement between the foreign and domestic parties; consequently, it relates to the 'joint credits' of the contracting parties.

The beneficiary of such credits is the organization of associated labour in which resources of a foreign person have been invested. This organization must repay the credit from the income generated by the joint venture before it is distributed between the contracting parties. If a joint venture contract has, in conformity with Article 9, been entered into by a work or composite of organization, and the contract has designated one or more basic organizations as being vested with the rights and obligations stemming from the contract, the basic organizations designated by the contract are beneficiaries of such credits.

Other terms specified in sections 2, 3 and 4 of this Article also relate only to such specific 'joint

credits' of the contracting parties. Thus, in section 2 it is provided that the amount of such credits may not exceed the total amount of the resources invested by the parties.

Since such credits are used to provide part of the capital for financing a joint venture, the repayment period must coincide with the period for which the joint venture contract has been formed. The repayment period may be shorter than the duration of the joint venture, but not longer.

Finally, if the income generated by a joint venture is not sufficient to repay the credit, the contracting parties are bound to provide resources for repaying it proportionately to the risk stipulated by them in the joint venture contract.

After these general remarks we give below answers to the question raised above:

1. which party or parties may be the borrower

The answer is given in section 1, Article 8, where it is stated that a credit may be taken by the Yugoslav organization and the foreign party. Consequently both parties may be borrowers or credit-takers; either the Yugoslav organization or the foreign party alone, or both parties acting jointly. However, regardless of who takes such a credit, the credit-user is always the Yugoslav organization, party to the joint venture. As already stated, the domestic organization must repay such a credit from the income generated by the joint venture.

This has been the practice in Yugoslavia to date and it did not differ from the general practice in crediting joint ventures in other countries. It differs now only in that a limit has been set for such credits (up to the amount of resources invested) and in that such credits are repaid from the income generated by the joint venture before it is distributed between the contracting parties. To this should be added that a joint venture as such does not have the status of a legal entity and may not therefore act as a borrower. It is the Yugoslav organization of associated labour that has this status when making use for the resources of the foreign party, which has practically the same effect.

2. must the two investing parties guarantee to repay the credit or loan if the joint venture entity cannot

In comments on Article 7, section 1 it was already said that no provision of the Law called the principle of the limited liability of foreign investors in question. This, needless to say, also applies to the repayment of joint credits. In section 4 of this Article it is specified that the contracting parties 'shall resources for repaying the credit proportionately to the stipulated risk of the joint venture.

This means that in cases when the income of the joint venture is not sufficient to repay the credit, the capital shares of the parties (resources invested) shall be diminished by the amount of insufficiency.

Consequently, this legal provision does not mean a demand that foreign investors guarantee to repay such credits with resources not provided for by the joint venture contract. The principle of limited liability of foreign investors is clearly determined in Article 28, section 2, of the amended Law, which deals with risk bearing in joint ventures. Thus, it is explicitly specified: 'Foreign persons shall be liable for obligations arising from joint ventures to the extent of resources they have invested, unless they have assumed greater liability under the joint venture contract'. The principle is consistently observed in the Law (see also Article 29, section 2).

3. will it in practice be possible to use a higher proportion of borrowed funds in cases where the economics justify it

The answer to this question is clearly given in Article 8, section 2, in which it is stated that 'the amount of the credit or loan ... shall not exceed the amount invested by the contracting parties'. However, as was initially stated, joint credits mentioned in Article 8 of the amended Law are not only credits for financing joint venture. In order to finance the aims of a joint venture, credits may be independently taken by the Yugoslav organization and the foreign party.

The Yugoslav party may independently take credits for financing operations which contribute to the realization of joint aims but which are not part of the joint venture. For example, for the manufacture of vital parts and components of the final product which is the subject of the joint venture contract. Such credits are exclusively repaid by the Yugoslav organization which is liable for them to the extent of all its assets. The Yugoslav organization must repay such credits from its gross income, but not at the expense of the gross income of the joint venture (see comments on Article 19). The amount of such credits is not limited.

The foreign party may also independently take credits to finance operations which contribute to the realization of joint aims but which are not part of the joint venture. For example, for the supply of equipment for the construction or reconstruction of plant and equipment which are the subject matter of the joint venture contract. Such credits are exclusively repaid by the foreign party, who may convert them into his capital share in the joint venture. The amount of such credits (or share) is not limited.

Finally, a joint venture may be acceded to by domestic or foreign banks or other financial organizations (see Article 10) to finance it through credits or in some other way (with a capital share and participation in income of the joint venture, but without risk sharing). If a bank or another financial organization finances a joint venture through a credit, the credit may be independently taken by the Yugoslav organization, or the foreign party, or the Yugoslav and foreign parties acting jointly (joint credit). In the first and second cases such credits must be repaid by the Yugoslav party and the foreign party respectively, each from his own resources, while a joint credit must be repaid by the Yugoslav organization, with the repayment being made from the income generated by the joint venture before its distribution between the contracting parties.

4. how will the repayment of credits or loans be accounted between the parties

The provisions of Article 8, section 3 and 4, which deal with the repayment of credits from the income generated by the joint venture prior to its distribution between the contracting parties 'proportionally to the stipulated risk of the joint venture' has not changed the previous practice of accounting credit repayments between the parties. More specifically, with payments of the principal of the debt the debt is reduced, which increases the worth of the investment in the joint venture. There is, therefore, no obstacle to the parties adding this increase to the nominal capital or the separate evidence account of the joint venture and divide it proportionately to their shares in accordance with their percentages.

Article 9

A joint venture contract may be concluded by a basic organization of associated labour (1).

A joint venture contract may also be concluded by a work organization (2) or a composite organization of associated labour (3), in conformity with the self-management agreement on association (4).

If a joint venture contract with a foreign person is entered into by a work organization or a composite organization of associated labour in conformity with the self-management agreement on association, one or more basic organizations of associated labour shall be designated by the contract and vested with the rights and obligations stemming from the contract, and the rights and obligations of the work organization or composite organization which has formed that contract shall be defined by it.

Article 10

Other foreign persons and domestic organizations of associated labour may accede to a joint venture even if they are only partly involved in its implementation, under conditions accepted by the contracting parties who were the original signatories to the joint venture contract.

This is the only provision in the amended Law which deals with the accession of other parties to a joint venture contract. From Article 10 it follows:

1. A joint venture contract may be acceded to by other foreign persons and Yugoslav organizations if such a contract already exists. The existence of a joint venture contract is proved by signatures attached thereto and not by the ruling of the competent agency on its approval. Moreover, an accession contract is not subject to approval.

2. Other foreign persons and other Yugoslav organizations may accede to a joint venture contract under special conditions, not under those provided for in the Joint Venture Act, so that such persons do not have the rights and duties of the investors. They only carry out certain operations or conduct certain kinds of work envisaged by the joint venture contract, for example, operations in connection with deliveries of equipment, giving credits, transport of goods, construction of projects, etc.

3. Accession contracts are formed for the period of time required for the operation or work involved

(1) A BASIC ORGANIZATION OF ASSOCIATED LABOUR (BOAL) is the basic form of associated labour in which workers directly exercise their self-managing rights and decide on all questions concerning their work and status. A basic organization of associated labour is formed for each unit of a work organization which makes a working or technological whole (a plant, workshop, etc.) and in which the results of joint labour can be expressed in terms of value on the market or within the work organization concerned. Basic organizations of associated labour cannot exist independently but only as constituent parts of a work or composite organization of associated labour.

(2) A WORK ORGANIZATION is a form of pooling labour and resources in which workers are interlinked through their common interest in work, or are directly linked through the unity of the labour process. It is an independent entity and approximately corresponds to an enterprise in other systems.

(3) A COMPOSITE ORGANIZATION OF ASSOCIATED LABOUR is a form of organization of associated labour established through the merger of several work organizations or basic organizations of associated labour. Such organizations are similar to combines or conglomerates.

(4) POOLING OF LABOUR AND RESOURCES is a specific of joint investment. There are varied and very broad possibilities for such pooling. It has certain similarities with fusions, integration and mergers of enterprises in capitalist economies, and with other forms of capital concentration.

to be carried out. Accession contracts may not be entered into for a term longer than the term of the joint venture contract.

4. Monetary claims stemming from an accession contract are paid, as costs, from gross income or from income and charged to the joint venture, depending on the kind of claims.

Article 11

Joint venture contracts may not be entered into in the spheres of insurance, trade and social activities, **with the exception of health and recreation-related services.**

The provision of section 1 of this Article shall not apply to scientific research.

Exceptionally, the Federal Executive Council (1) may, in agreement with the competent republican and provincial authorities, prescribe that a domestic organization of associated labour may enter into a joint venture contract in the field of certain social activities, if this will contribute to the development of the activities concerned.

Investment of resources of foreign persons in the sphere of banking is regulated by federal law. According to the Decision on the Uniform Classification of Activities (Službeni list SFRJ, Nos. 34/76, 62/77, 72/80, 77/82, 71/83 and 68/84), health- and recreation-related activities include the following:

Subgroup 130120 Outpatient health care;

130131 Inpatient health care (without rehabilitation);

130132 Medical rehabilitation;

130140 Dental Care;

130100 Pharmacies;

120410 Organizations of associated labour offering services to citizens in the performance of sports and recreational activities.

Joint ventures may be entered into all fields except those expressly specified in section 1 of this Article. Social activities (education, culture, social security, child care) are excluded from joint ventures, unless the Federal Executive Council decides otherwise in individual cases. The 1978 Law allowed joint ventures in the sphere of science, and the amended text has added to it health- and recreation-related services.

Article 12

A foreign person may invest in a domestic organization of associated labour foreign exchange, things and rights which constitute instruments and subjects of labour.

As part of the value of resources invested as determined by a joint venture contract, a foreign person may, in conformity with regulations, invest in the domestic organization of associated labour concerned equipment and intermediate or raw materials only if these are not produced in Yugoslavia in appropriate quality and quantities and at appropriate prices.

A foreign person may also invest in a domestic organization of associated labour patent, industrial design and trademark rights, production and technical documentation and know-how, in accordance with federal law.

For the purposes of the Law on Foreign Exchange Operations and Foreign Credit Relations (Službeni list SFRJ, Nos. 17/84 and 71/84), 'foreign exchange' is understood to mean claims, on any account, denominated in a foreign currency, regardless of the way it is disposed of. Foreign exchange is also understood to include all kinds of foreign cash money, with the exception of gold coins. 'Rights which constitute instruments and subjects of labour' are understood to include patent rights, industrial design rights, trademark and brand rights, rights to production and technical documentation, and know-how.

Foreign persons may invest in a Yugoslav organization equipment and/or intermediate and raw materials only if these are not produced in Yugoslavia in appropriate quantities and at appropriate prices. An opinion as to whether particular equipment and/or raw and intermediate materials are produced in Yugoslavia in appropriate quantities and at appropriate prices is given by the Yugoslav Chamber of Economy. Such an opinion is the basis for approving a joint venture contract where a foreign party invests equipment and/or raw and intermediate materials in a domestic organization. In the procedure for the approval of joint venture contracts, if they provide for the investment or

(1) EXECUTIVE COUNCILS are executive political bodies of the republican and provincial assemblies and the Yugoslav Assembly. They are responsible to their respective assemblies for the overall situation, for the implementation of policy and enforcement of laws, and for the direction and coordination of work of the administration. The status and powers of the Federal Executive Council are similar to those of governments or cabinets in other countries.

procurement of technology, legislation pertaining to the procurement of rights to technology is also applied: the Law on Long-Term Co-Production, Business and Technical Cooperation and Procurement and Assignment of Material Rights to Technology between Organizations of Associated Labour and Foreign Persons (Službeni list SFRJ, No. 30/83) and the Law on the Protection of Inventions, Technical Improvements and Identification Marks (Službeni list SFRJ, No. 34/81).

Article 13

A joint venture contract may be cancelled before the period stipulated by it if in the course of several years losses have been incurred by the joint venture, or if the joint aims set out in the contract are not being realized; if one of the contracting parties had failed to perform essential obligations stemming from the contract; or if the circumstances which prevailed at the moment of the formation of the contract have substantially changed.

Article 14

Resources for a joint venture shall be disposed of, in the way determined by law and the relevant joint venture contract, by the domestic organization in which such resources have been invested.

II. The joint business board

Article 15

A domestic organization of associated labour and a foreign person may establish a joint business board in which they will decide by mutual agreement on matters relating to the joint venture. The composition and competence of the joint business board referred to in section 1 of this Article and the manner of election of its members shall be determined by the joint venture contract.

The amended provisions pertaining to the joint business board have resolved numerous problems and misunderstandings occurring in practice due to the earlier lack of precision in the regulation of this issue. More specifically, the earlier provisions provided that a joint business board was authorized to decide on some questions, which on others it could only make proposals and give opinions. It was empowered to decide on issues relating to the organization of work and business and the rise in labour productivity, provided that decision-making on such issues 'is not part of the workers' inalienable rights'. This generalized definition of the joint business board was the cause of many misunderstandings in negotiations with foreign partners, because they understandably insisted on the board having much broader powers.

Under the amended Law, contracting parties decide by mutual agreement and on equal terms. This principle also applies to joint ventures between Yugoslav organizations of associated labour. Consequently, the content of this Article is analogous to the corresponding provision of the Associated Labour Act (Article 541), which regulated the mode of establishment of a joint business board between Yugoslav organizations of associated labour which pool labour and resources.

Article 16

A basic organization of associated labour which disposes of resources invested in a joint venture and carries out its operations, shall be represented on the joint business board.

The joint business board shall be set up in the basic organization of associated labour which disposes of the resources invested in the joint venture and carries out its operations.

If the resources invested are disposed of by several basic organizations of associated labour, these organizations shall by mutual agreement designate their representatives to sit on the joint business board and determine the basic organization of associated labour in which the joint business board will be set up.

If for the purposes of operating the same joint venture resources are invested in a domestic organization of associated labour by both a foreign person and another domestic organization of associated labour, this other organization of associated labour shall be represented on the joint business board.

The number of representatives of the foreign person on the joint business board may not exceed the number of representatives of the domestic organization of associated labour. **It shall be determined by contract which questions must be solved by mutual agreement regardless of the number of representatives on the joint business board.**

As already stated, one of the basic principles of the Law is that contracting parties decide by mutual agreement and on equal terms in a joint business board. The implementation of this principle should

also be facilitated by the provision contained in section 5 of this Article, according to which questions that must be dealt with by mutual agreement regardless of the number of representatives on the joint business board are determined by contract. The Law does not specify which questions these are, leaving it to the parties to decide.

'Questions which are solved by mutual agreement regardless of the number of representatives on the joint business board' include in particular:

- Organization of production, purchases and sales;
- Rise in productivity;
- Material and energy input;
- Resources for current and capital maintenance;
- Reconstruction of facilities and modernization of production;
- Replacement of fixed assets;
- Borrowings charged to the income of the joint venture;
- Determination of the amount of costs to be covered according to stipulated standards, criteria and norms;
- Amounts of claims recorded in a separate evidence account, etc.

Article 17

The joint business board shall decide on all matters relating to the joint venture.

Prior to taking a decision as referred to in section 1 of this Article, representatives of the domestic organization of associated labour sitting on the joint business board shall hear the views of the managing bodies (1) of the domestic organization of associated labour which disposes of the resources invested.

The amended Law omits the earlier instructive provision as to which questions and under what conditions could be decided by the joint business board. Instead of this, section 1 of this Article explicitly specifies that 'the joint business board shall decide on all matters relating to the joint venture'. In order to bring this provision into accord with workers' self-managing decision-making in Yugoslav organizations of associated labour, the amended Law makes it obligatory for the representatives of the Yugoslav organization sitting on the joint business board prior to taking a decision to 'hear the views' of the managing bodies of the domestic organization of associated labour which disposes of the resources invested'. In other words, an adjustment has been made between the self-managing rights of workers in domestic organizations and decision-making by their representatives in joint business boards. The self-managing rights of workers and their organs have not been curtailed in any respect — they decide on all questions as guaranteed by the constitutional and legal system, and their representatives on the joint business board 'transmit' the workers' views and decisions, in the same way as the representatives of the foreign investor 'transmit' and represent the positions of the managing board of the firm they represent in this body.

The amended Law makes a distinction between the mode of decision-making 'on matters relating to the joint venture' and on questions falling within the exclusive competence of the Yugoslav organization.

The rule is that in addition to the resources of the joint venture, the Yugoslav party also has its own assets. Even in cases where resources have been invested in a new organization, the latter will after the first accounting of net income from the joint venture have a part of its own resources, which it will increase from year to year. Consequently, a joint venture cannot be equated with the business of this organization, just as decision-making by the joint business board cannot be equated with decision-making on the business operations of the organization as a whole.

Note

The most significant changes in the Law have been made in this part, which regulates the rights and duties of the contracting parties stemming from invested resources and their income sharing. Because of this, before commenting on the new provisions, attention should be drawn to the following:

(1) **ORGANS OF MANAGEMENT** are bodies elected on a self-managing basis, as for example, workers' councils. They should be distinguished from business-managing organs, such as directors or business boards.

First of all, clearer accounting categories — net income and residual net income (profit), which did not exist under the original Law, have been introduced. In this way many problems and difficulties have been resolved and complaints by foreign investors regarding their unequal treatment in the distribution of the final results of joint ventures should not arise.

More specifically, Article 19 of the original Law caused numerous problems in the annual determination of the share in income through the application of bookkeeping regulations and rules on the determination and distribution of the gross income and income of organizations of associated labour. Gross income and income were every year determined in the annual balance sheet in which the share of the foreign party stemming from his invested capital was also stated. In any year in which no income was achieved the foreign party did not realize and profit, and if losses were incurred, he had to share in them. The effects of losses could not be compensated for in the subsequent years when the income generated would have made possible a share above the allowed limits.

Because of all this, article 19 of the original Law has been replaced by several provisions providing for a new system of accounting income and net income of joint ventures and also a new method of determining profits and the repatriation of the capital invested by foreign parties.

The essence of this method of accounting can be summed up as follows:

Income generated by a joint venture with a foreign person is determined in the same way as income generated by a Yugoslav organization in a joint venture with another Yugoslav organization. If a Yugoslav organization and a foreign person have established standards for material costs and criteria for fixing depreciation rates, these costs are covered according to these standards and/or criteria. Income earned by a joint venture with a foreign person is used only to meet statutory obligations and expenses associated with its generation. Net income earned by a joint venture is allocated by the Yugoslav party for workers' personal incomes and collective consumption, within the limits of the standard set for current labour, if such standards have been stipulated. The residual net income of the joint venture is divided into the part going to the Yugoslav organization and the part accruing to the foreign party as profit. From its part of net income the Yugoslav organization allocates resources for the expansion and promotion of productive forces; and also from its part of net income it returns to the foreign party the resources invested by him.

III. The rights and obligations of contracting parties stemming from invested resources, and income sharing

Article 18

A foreign person shall share in the income earned through a joint venture proportionately to his contribution to the income generated on the basis of the resources invested.

The right of a foreign person to share in the income earned through a joint venture shall cease when the value of the resources invested has been returned to the foreign person together with compensation for their use due to him prior to the return of their value, or after the expiry of the time-limit stipulated by the joint venture contract, regardless of the extent to which the value of the resources invested has been returned.

A joint venture contract may not provide for a permanent share by a foreign person in the income of a domestic organization of associated labour generated through the joint venture.

Article 19

A domestic organization of associated labour in which resources of a foreign person have been invested shall keep in its books separate record of the income generated through the joint venture with the foreign person.

A Yugoslav organization — party to a joint venture must keep in its business books separate records of the income generated by the joint venture for reasons mentioned in comments on Article 20.

A basic organization of associated labour in which resources have been invested by a foreign person accounts business operations carried out with the use of foreign resources invested separately and presents them as joint income on account of the use of pooled resources in accordance with Articles 53-58 and Article 59 of the Law on the Determination and Distribution of Gross Income and Income and the Determination and Distribution of Gross Income (Službeni list SFRJ, No. 56/84); in further text: joint income on account of the use of resources of foreign persons.

Article 20

A domestic organization of associated labour shall be entitled to income from a joint venture with a foreign person after material and depreciation costs have been deducted from the income grossed through the joint venture, with the exception of those material costs which are, according to law, distributed over time or charged to working capital on the basis of inventories.

If a basic organization of associated labour and a foreign person have established standards for material costs and criteria for determining depreciation rates to be applied in the basic organization of associated labour which implements the joint venture contract, these costs shall be compensated for from the gross income generated by the joint venture according to these standards and criteria.

Joint income and own income:

Joint income earned by the use of resources of foreign persons is determined so that from the gross income of the joint venture material and other costs and depreciation charges are deducted with the exception of those material costs which can be distributed over time or charged to working capital on account of inventories. If accounting is carried out in accordance with standards for material costs and criteria for determining depreciation rates applied in the basic organization implementing the joint venture contract, the joint income thus determined is the basis for the distribution of joint income on account of the use of of the foreign party.

A basic organization which earns income by using resources of a foreign person determines its income after it has covered from gross income and real material and other business costs and depreciation charges.

Article 21

Income earned from a joint venture with a foreign person shall be used to meet statutory obligations and expenses which must be covered from the income of the basic organization involved and which relate to the generation of that joint venture income.

The basic organization of associated labour shall not use the income referred to in section 1 of this Article which belongs to the foreign person to cover its obligations and expenses on:

- (1) National defence and social self-protection,
- (2) Depreciation costs exceeding the amounts determined by law, unless otherwise stipulated,
- (3) Fines for economic violations and petty offences and court fees, if no responsibility of the foreign person had been established,
- (4) Premiums for the insurance of socially-owned resources and material rights which are not used for the joint venture.

Sections 1 and 2 of Article 21 make up two independent regulatory wholes regarding the fulfilment of obligations stemming from the income of a basic organization in which resources of a foreign person have been invested. In section 1 it is specified that from income earned through a joint venture with a foreign person statutory obligations and expenses must be met, but not also other obligations, for example those assumed by self-managing agreements. This does not, of course, mean that such income cannot be used for the fulfilment of other obligations which are not specified by statute, of under the joint venture contract they have been undertaken as joint obligations. Section 2 states which obligations may never be charged to the income of the joint venture.

Article 22

Workers in a basic organization of associated labour shall allocate net income generated by a joint venture with a foreign person for personal incomes and collective consumption, (1) on the basis of a self-management enactment which defines the basic elements and scales for the distribution

(1) RESOURCES FOR COLLECTIVE CONSUMPTION are funds allocated from income for the workers' welfare funds in basic and other organizations of associated labour (canteens, allowances for annual holidays, housing, etc.), and resources pooled in self-managing communities of interest for education, health, social security, culture, and similar needs. These funds should be distinguished from those which are allocated for government expenditure (national defence, administration), which is financed from the budgets of socio-political communities.

of net income of the basic organization, in accordance with law, self-management agreements (1) and social compacts. (2)

Workers in the basic organization of associated labour shall divide the residual net income of the joint venture with the foreign person according to their contribution to the results achieved, on the basis of current and past labour (3) into:

(1) The part of the residual net income of the joint venture which is due to the domestic organization of associated labour,

(2) The part of the residual net income of the joint venture which is due to the foreign person (profit), proportionally to the resources invested or other criteria agreed upon by the contracting parties.

After the obligations stemming from the income of a joint venture have been met, workers in the Yugoslav organization — party to it, allocate net income generated by the joint venture to personal incomes and collective consumption. They do so in conformity with law, self-managing agreements and social compacts, within the limits set by the current labour standards determined by the joint venture contract.

This means that if current labour standards have been stipulated, personal incomes will be paid accordingly, just as other obligations stemming from income are fulfilled in accordance with the contract in order to arrive at the residual net income in which the foreign party participates (profit). According to Article 22, the net income of the Yugoslav organization, i. e. the part thereof left to it after paying the foreign party, is distributed by it in conformity with its enactments and criteria. If a difference appears in accounting between the total amount of personal incomes according to the established standards and enactments of the basic organization concerned, it is charged to the basic organization. According to Article 22, section 1, collective consumption is charged to the income of the joint venture if such an obligation is specified by law. In any case, it is an inalienable right of workers to distribute the net income of a joint venture to personal incomes and collective consumption, regardless of who and in what part covers these expenses.

The residual net income of a joint venture is a new category and is distributed, depending on the results achieved, between the Yugoslav and foreign parties (profit from the joint venture).

The part of the residual net income which is due to the foreign party is his profit.

Article 23

The part of the residual net income of a joint venture which is due to the foreign person shall represent his share of income as compensation for the use of the resources invested for the year for which the net income from the joint venture is determined.

According to this Article, profit from a joint venture is determined every year, and so are losses. Since the earlier provision limiting the amount of profit from joint ventures has been deleted (Article 19 of the original Law), cumulative accounting of profits for several years has no longer any practical sense. Only losses incurred in a business year are of practical significance. If such losses are not made good by new resources, the parties will in the next business year have a smaller base for participating in income.

Article 24

The part of the residual net income of a joint venture which is due to the basic organization of associated labour involved shall be allocated by workers in the basic organization of associated labour for the improvement and expansion of productive forces and for the formation and renewal of reserves, in conformity with the self-management enactment (4) defining the basic elements and

(1) SELF-MANAGING AGREEMENTS are self-managing acts adopted by workers in self-managing organizations and communities with a view to coordinating their activities and regulating mutual relations. A self-managing agreement is only binding upon those who have signed or acceded to it.

(2) SOCIAL COMPACTS are self-managing enactments adopted by organizations of associated labour and their associations, self-managing communities of interest and other self-managing organizations and communities, organs of socio-political communities, trade unions and other socio-political and social organizations, which regulate relations of collective interest and of general concern to the community. Their purpose is to replace the regulation role of the state in the sphere of social affairs. They are binding upon those who have concluded or acceded to them.

(3) PAST LABOUR is the work performed before the current work cycle by which assets used in current labour were created. Part of the income thus generated accrues to the personal income of workers employed.

(4) SELF-MANAGING ENACTMENTS are normative acts independently adopted by self-managing organizations and communities which regulate in general outlines relations within and among them.

scales according to which the net income of the basic organization of associated labour is distributed in compliance with law, self-management agreements and social compacts.

The part of the residual net income of a joint venture which is due to the Yugoslav organization is allocated by it for the expansion of capacity and for reserves, according to scales and criteria laid down by it in its enactments (see comments on Article 22).

Article 25

A basic organization of associated labour in which resources of a foreign person are invested shall fulfil its obligations towards the foreign person concerning the return of the value of resources invested in stipulated amounts and within stipulated time-limits, in conformity with the joint venture contract.

Article 26

Claims of a foreign person arising from the joint venture (compensation for the use of resources invested and their return) may also be stated in a separate account statement of the resources of the basic organization of associated labour in which resources of the foreign person have been invested.

Articles 25 and 26 deal with the same matter: fulfilment of the obligations of the Yugoslav towards the foreign party concerning the latter's claims. Article 25 first speaks of the time-limits within which claims of the foreign parties must be settled in specific amounts on account of the return of the value of resources invested (in conformity with the contract). In comments on Article 23 it was already said that claims to the part of net income from a joint venture come due for the current business year with the adoption of the annual balance sheet for this year.

According to Article 26, claims of a foreign person from a joint venture (compensation for the use of resources invested) and the right to the return of such resources may be recorded in a separate evidence account. Such an account is not obligatory for the contracting parties and the Law does not specify what claims can be recorded in such an account. Such accounts may for example, include the following:

- The shares of the contracting parties paid to the Yugoslav organization;
- Additional investments paid to the Yugoslav organization;
- Reinvested resources of the foreign party realized through participation in the net income of the Yugoslav organization, according to the annual balance sheets for respective years;
- Profit of the foreign party not paid to him — up to the moment of payment;
- The part of invested resources returned;
- The part of losses incurred by the joint venture which the foreign party has covered by other resources (his own additional resources for covering losses);
- The part of losses incurred by the joint venture which the foreign party has not covered by other resources and which reduce his participation;
- Payments made by the foreign party from his part of the net income for the purchase of things and rights and to cover the material and other costs of operations which cannot be compensated for from gross income in the accounting period;
- Other payments made by the foreign party.

The evidence account is similar to the so-called 'nominal capital account', the only difference being that the 'nominal capital account' shows the state of capital in the accounting period according to initial investments and increased capital on the accounting day. The evidence account shows the amount owed by the Yugoslav organization to the foreign party on account of participation in income and on account of the return of invested resources. It also shows the amount of debt of the foreign party according to his obligation to invest resources. In contrast to 'the nominal capital account', the evidence account also shows: the state of claims according to their maturities, and the date on which the right of the contracting parties to share in the results of the joint venture begins, with the new values stated in the evidence account.

The Yugoslav organization is bound to settle the claims of the foreign party according to the evidence account not later than the day of the termination of the contract.

Claims of the foreign party recorded in the evidence account begin with the date of their entry into it and are extinguished with their settlement. The amounts recorded in this account are from the day of their entry treated as an increase or decrease in the foreign party's capital share, with the foreign party being entitled to participate with a corresponding amount in the net income of the organization of associated labour in which he has invested his resources.

The amendment was made in conformity with changes in Article 22.

Article 27

Any joint venture contract which does not provide for the termination of the foreign person's share in the income of the domestic organization of associated labour once all the resources invested as his participation have been returned together with an appropriate compensation for the use of such resources, shall be illegal, and so shall any contract entered into exclusively for the purpose of financial transactions without sharing business risks.

Article 28

Domestic organizations of associated labour and foreign persons shall bear risks from joint ventures in proportions to their share in income realized through such joint ventures, under conditions and in the manner provided for in the joint venture contracts.

Foreign persons shall be liable for obligations arising from joint ventures to the extent of the resources they have invested, unless they have assumed greater liability under the joint venture contract.

Article 29

For the purposes of the present Law, a loss shall be deemed to have been incurred through a joint venture of a domestic organization of associated labour using resources of a foreign person if the income realized through the joint venture, as stated in the annual balance sheet, is smaller than the sum total of the amounts of advance payments of personal incomes made to workers for their work in the joint venture up to the amount specified by the relevant self-management enactment, the amount of personal incomes guaranteed by law for the period for which they have not been paid, and the amount of liabilities to be met under law out of income in connection with the joint venture. A loss incurred through a joint venture shall be covered by the domestic organization of associated labour and the foreign person within the term specified by law for covering losses of an organization of associated labour, in accordance with their mutual liability defined in the joint venture contract. If the foreign person fails to cover the loss with his other resources, the resources invested by him shall be reduced by the amount of the loss.

In the year in which a loss as referred to in section 1 of this Article has been incurred, the foreign person shall not share in income realized by the joint venture.

Article 30

A foreign person shall have the right to transfer abroad resources earned through a joint venture on the basis of income sharing, in conformity with the Law on Foreign Exchange Operations and Foreign Credit Relations, and in conformity with the present Law.

A foreign person may use resources which he is entitled to transfer abroad to increase his participation in the resources of the joint venture, or may form a contract providing for the investment of such resources in another domestic organization of associated labour, or he may use such resources in Yugoslavia in some other way, in accordance with law.

Article 31

Resources realized by a foreign person through a joint venture on account of his share in income as compensation for the use of the resources invested, may be accounted and paid to such person in dinars, if so provided by the joint venture contract, or if the foreign person subsequently agrees to it. The foreign person shall dispose of such dinar amounts in accordance with the provisions of the Law on Foreign Exchange Operations and Foreign Credit Relations, and in conformity with the present Law.

A foreign person may use the dinar amounts referred to in section 1 of this Article to purchase products on the Yugoslav market, to pay for services, or to make investments in Yugoslavia, or he may take them out of Yugoslavia in accordance with law, or transfer them to another foreign person, if such amounts have been realized by the joint venture through the manufacture of products or performance of services the exports of which are prohibited by federal enactments or which owing to their nature cannot be exported (public utility services, road and bridge maintenance, bus terminal services, etc.).

Products and services paid for in dinars (section 2) may be exported by the foreign person through an organization of associated labour registered for export operations, in conformity with legal provisions pertaining to exports from Yugoslavia.

Article 32

A joint venture contract may provide that the liabilities of the domestic organization of associated

labour towards the foreign person arising from his share in net income may also be settled by deliveries of part of the products manufactured by the joint venture:

(1) If such products are manufactured under a joint venture contract involving exploration, exploitation and primary processing of oil, gas, ores and other mineral resources,

(2) If such products are manufactured under a joint venture contract involving production and processing of agricultural products, raising and fattening of livestock, fish farming and catching, processing of meat and fish and other livestock products, planting of single-species forests and laying out of other kinds of plantation, or processing of such products.

The Federal Executive Council may prescribe that a joint venture contract may provide for the obligation of the domestic organization of associated labour involved to deliver to the foreign person part of the products manufactured by the joint venture even in economic activities other than those mentioned in section 1 of this Article, if it considers that this will contribute to the faster development of the activity concerned.

Article 33

A joint venture contract may provide that the liabilities of the domestic organization of associated labour towards the foreign person stemming from his share in the residual net income of the joint venture can be met by rendering services which are the subject matter of the joint venture contract. According to Article 32, the Yugoslav organization may undertake by contract the obligation to settle its liabilities towards the foreign party stemming from his share in net profit by deliveries of products manufactured by the joint venture. Article 33 has extended this possibility to the performance of services.

The kinds of services are not mentioned. This provision of the Law can therefore be interpreted in the broadest possible sense. These can be any kinds of services relating to, or stemming from, the subject matter of the joint venture contract. For example, if a joint venture contract involves manufacture of equipment, the Yugoslav party could fulfil its obligations towards the foreign party by erecting or installing equipment for the buyers; or, if a joint venture contract involves a tourist facility, the Yugoslav party could fulfil its obligations towards the foreign party by offering transport services to foreign tourists to and from the facility in question.

In such cases the performance of services must have a compensatory function, i. e. the services must be carried out as a means of settling the foreign party's claims stemming from his share in net income, in a corresponding amount and in the stipulated currency.

Article 34

Things and rights being invested in a joint venture must be realistically assessed, in conformity with law.

Article 35

The foreign person shall have the right to inspect the business books of the basic organization of associated labour in which the income generated by the joint venture is recorded.

This is in fact the same provision that was contained in Article 26, section 2, of the original Law.

Article 36

A foreign person may, in conformity with law and with the consent of the domestic organization of associated labour in which he has invested resources for a joint venture, and with the consent of other contracting parties, transfer the assets and liabilities of the joint venture contract to another foreign person or another domestic organization of associated labour, unless otherwise specified by the joint venture contract.

Article 37

If a foreign person intends to transfer his assets and liabilities arising from a joint venture contract to another foreign person of domestic organization of associated labour, he shall first offer in writing the transfer of assets and liabilities arising from this contract to the domestic organization of associated labour in which he has invested resources.

Unless otherwise specified by the joint venture contract, the domestic organization of associated labour shall be bound to deliver to the foreign person a statement of acceptance or non-acceptance of the offer within 60 days from the date of receipt of the offer.

If contrary to the provision of section 1 of this Article, a foreign person transfers his assets and liabilities arising from a joint venture contract without a prior offer to the domestic organization of

associated labour, or if he transfers his assets and liabilities arising from the joint venture contract under terms which are more favourable for the person or organization to which the transfer has been made than those offered to the domestic organization of associated labour, the domestic organization of associated labour in which the resources of the foreign person have been invested may bring a suit before the competent court of law and demand that the transfer of the assets and liabilities arising from the joint venture contract be made null and void and the assets and liabilities arising from the joint venture contract be transferred to the domestic organization of associated labour under the same terms.

A suit for the infringement of the priority right to the transfer of assets and liabilities arising from a joint venture contract may be brought by the domestic organization of associated labour within 30 days from the date when the organization learned of the transfer or of the more favourable terms of transfer.

Transfer of the assets and liabilities of a foreign person to another foreign person or to a domestic organization of associated labour shall be entered into the register referred to in Article 51 of the present Law. A foreign person who has transferred his assets and liabilities arising from a joint venture contract shall be bound to report such transfer within 30 days from the date of the formation of the transfer contract.

Transfer of assets and liabilities arising from a joint venture contract shall be subject to approval by the federal department responsible for energy and industry.

Article 38

A joint venture contract may provide for the right of the foreign person to the return of the value of resources or to the return of specific things invested by the foreign person in the domestic organization of associated labour.

If a joint venture contract provides for the right of the foreign person to the return of specific things invested in the domestic organization of associated labour, the foreign person may also take such things out of Yugoslavia.

Article 39

In case a joint venture contract is terminated or the domestic organization involved ceases to exist, the foreign person shall be entitled to the return of the value of the resources invested up to the amount of claims recorded in a separate account statement, if such an account is kept in accordance with Article 26 of this Law.

The value of the resources referred to in section 1 of this Article shall be diminished in proportion to the level of uncovered losses borne by the foreign person.

If the foreign person's claims arising from the joint venture are not set out in a separate account statement in accordance with Article 26 of this Law, in the event that the joint venture contract is terminated or the organization of associated labour ceases to exist, the foreign person shall be entitled to the return of the resources invested in the remaining amount if they have already been partially returned, or in an increased or decreased amount depending on the income generated by the joint venture and exports.

In comments on Article 26 it was already said that the claims of a foreign party, according to the separate evidence account, must at the latest be settled at the termination of the joint venture contract. This is explicitly specified in Article 39, section 1.

In section 2 it is stated that the value of resources, according to the separate evidence account, is reduced in proportion to the level of uncovered losses borne by the foreign party. Since the uncovered losses incurred in previous years are already registered in the evidence account, Article 39, section 2, related only to uncovered losses determined by the final balance sheet of the joint venture.

Section 3 of Article 39 allows for the possibility of invested resources being returned to the foreign party after the termination of the joint venture, or after the domestic organization has ceased to exist, in an increased or decreased amount, depending on the income generated by the joint venture. Accounting according to section 3 of this Article is resorted to where no evidence account has been kept. Furthermore, accounting according to section 3 may not be effected in combination with section 1 of this Article.

Article 40

The foreign person shall have the right to repatriate the resources invested or the remainder thereof if the joint venture contract has ceased to be valid due to the achievement of its business aims or to the expiry of the stipulated period of time; if the joint venture contract has been cancelled for

reasons specified in the present Law: or if under the joint venture contract the foreign person may partially withdraw the resources invested while the contract is still in force. The foreign person shall have the right to repatriate the resources invested or the remainder thereof even if the domestic organization of associated labour has ceased to exist. Repatriation of the resources referred to in section 1 and 2 of this Article shall be effected with resources as provided in Article 122 of the Law on Foreign Exchange Operations and Foreign Credit Relations.

Article 41

Resources invested in a domestic organization of associated labour may also be repaid to the foreign person in dinars, if so specified in the joint venture contract.

The dinar amounts referred to in section 1 of this Article may be used by the foreign person to purchase products on the Yugoslav market, to pay for services and to make investments in Yugoslavia, or the foreign person may take them out of Yugoslavia, **in conformity with law** or may transfer them to another **foreign** person.

Products and services paid for in dinars in accordance with section 2 of this Article may be exported by the foreign person through an organization of associated labour registered for export operations, in conformity with regulations pertaining to exports from Yugoslavia.

Article 42

If a foreign person has invested resources in any of the activities referred to in Article 32 of the present Law, the joint venture contract may, exceptionally, provide that the domestic organization of associated labour may also compensate the foreign person for the value of the resources invested by deliveries of part of the products manufactured by the joint venture.

A joint venture contract may provide for the right of the foreign person to the return of the resources invested through the performance of services which are the subject matter of the joint venture contract.

Article 42, section 2, deals with the same issue as Article 33, the only difference being that it relates to the performance of services on behalf of the foreign party as a mean of returning invested resources. All that was said in comments on Article 33 also applies to Article 42, section 2.

Article 43

If real property which has been partly or in full purchased with resources invested in a domestic organization of associated labour by a foreign person is expropriated in the general interest by a final ruling of the competent authority, such a ruling shall also provide for compensation to the domestic organization of associated labour to the extent of the obligation undertaken by it towards the foreign person under the joint venture contract.

The compensation referred to in section 1 of this Article shall be paid by the organization or person to whom the expropriated real property has been assigned (the recipient) within 60 days from the date the ruling on expropriation of the real estate becomes final.

The foreign person shall have the right to repatriate the resources referred to in section 1 of this Article.

Article 44

If a joint venture contract is entered into by a work organization, the basic organizations of associated labour operating within it shall be liable for the obligations stemming from the joint venture, as provided by the self-management agreement on association in the work organization.

If resources of a foreign person are invested under a joint venture contract in a basic organization of associated labour, this basic organization shall be liable for obligations stemming from the joint venture to the extent of the resources it disposes of, unless the joint venture contract to which other basic organizations of associated labour operating within the same work organization have agreed provides that these basic organizations shall also be liable for such obligations in excess of the value of assets of the basic organization of associated labour in which resources for the joint venture have been invested.

The liability referred to in sections 1 and 2 of this Article shall be entered into the court register.

Article 45

Liability stipulated by a joint venture contract may not be changed by amendments to the self-man

agement agreement on association, if such amendments have not been agreed to by the domestic organization of associated labour and the foreign person who are parties to the contract.

IV. Approval and registration of joint venture contracts

Article 46

Joint venture contracts, amendments and supplements thereto and the extension of their validity shall be subject to approval by the federal department responsible for energy and industry.

A domestic organization of associated labour shall enclose in its application for the approval of a joint venture contract **five copies** of the following:

(1) The authentic text of the joint venture contract drawn up in one of the languages of the nations of Yugoslavia (1),

(2) An economic and technical study showing the justifiability of the investment involved.

Before submitting a contract for approval to the competent body referred to in section 1 of this Article, the organization of associated labour shall inform the Yugoslav Chamber of Economy (2) of its intention to form the contract.

A Yugoslav organization intending to enter a joint venture contract must notify thereof the Yugoslav Chamber of Economy so that the latter may timely inform it (before it signs the contract) of any possible problems that might arise in cooperation with the foreign party.

Article 47

The federal department responsible for energy and industry shall enter all amendments and supplements to a joint venture contract which provide for additional investment or reinvestment of the foreign person's resources in the manufacture of the same type of products, according to the contract already approved between the same contracting parties, into a separate register along with the contract already approved.

The domestic organization of associated labour shall submit the request for entering the contract into the separate register in accordance with section 1 of this Article to the federal department responsible for energy and industry within 30 days from the date of signing the contract on the additional investment or reinvestment of resources.

If changes are made in a joint venture contract for the purpose of additional investment or reinvestment, such changes are not treated as being a new contract and no special permit is required; they must only be registered along with the existing contract.

Article 48

The economic and technical study referred to in point 2, section 2, Article 46 of the present Law shall in particular contain:

(1) Information on the sources of assets to be invested by the domestic organization of associated labour,

(2) Information on the technical and technological solutions required for the manufacture of products of the joint venture,

(3) Information on the kind, quantity and value of equipment to be imported for the construction or enlargement of the project in which the contracting parties have invested their resources,

(4) Information on the kind, quantity and value of raw and intermediate materials to be imported during the validity of the joint venture contract,

(5) Information on the state of professional staff and a programme for training them for the performance of the obligations undertaken by the joint venture contract,

(6) Information on steps taken to ensure successful exploitation of energy and raw materials, and the protection of the human environment,

(1) THE LANGUAGES OF THE NATIONS OF YUGOSLAVIA are: Serbo-Croat, Croato-Serbian, Slovene and Macedonian.

(2) CHAMBERS OF ECONOMY are general (non-profit) organizations of associated labour in the sphere of the economy, organized territorially (municipal, regional, provincial, republican, and federal — the Yugoslav Chamber of Economy). Organizations of associated labour in the economy are bound to be members of such chambers; through them they express and adjust their interests with the framework of and between individual branches and sectors of the economy, and jointly act vis-à-vis the community. Within the chambers there are general associations for individual economic activities or groups of economic activities.

- (7) Information on the basic raw materials to be used in the manufacture of products which are the subject matter of the joint venture, showing that the use of the raw materials is in line with Yugoslavia's development policy,
- (8) Information on the possibilities for marketing abroad and at home products to be manufactured by the joint venture,
- (9) Other information on the economic justifiability of the investment of resources by foreign persons in domestic organizations of associated labour.

Article 49

No joint venture contract formed shall be approved:

- (1) If relations are established between a domestic organization of associated labour and a foreign person which substantially infringe the equality of the domestic organization of associated labour and the foreign person,
- (2) If it restricts exports of products manufactured by the domestic organization of associated labour which are the subject matter of the joint venture contract, and if such restriction is not in line with Yugoslavia's policy and system of foreign economic relations,
- (3) If the provisions of the contract are contrary to the defence and security interests of the country,
- (4) If the provisions of the contract are contrary to the Social Plan of the Socialist Federal Republic of Yugoslavia,**
- (5) If the provisions of the contract are contrary to the established strategy of technological development in the Socialist Federal Republic of Yugoslavia.**

The opinion as to whether or not the provisions of a joint venture contract are contrary to the Social Plan of Yugoslavia is given by the Federal Office of Social Planning, and the opinion as to whether or not the provisions of such a contract are contrary to the established strategy of Yugoslavia's technological development is given by the Yugoslav Chamber of Economy, on the basis of the Social Compact on the Foundations of the Strategy for Yugoslavia's Technological Development.

Article 50

The federal department responsible for energy and industry shall be found to render a ruling on an application for the approval of a joint venture contract within 60 days from the date of receipt of the application.

Before rendering a ruling on the approval of a joint venture contract, the federal department responsible for energy and industry shall hear the opinion of the competent federal departments as to whether the provisions of the joint venture contract are contrary to the defence and security interests of the country. A ruling on the approval of a joint venture contract may not be rendered in contravention of such an opinion. A ruling by which an application for the approval of a joint venture contract is rejected because of its provisions being contrary to the defence of security interests of the country shall be rendered at this department's discretion.

In the procedure for approving a contract the federal department responsible for energy and industry may, in addition to the opinion referred to in section 2 of this Article request to hear other relevant opinions of federal, republican and provincial authorities, the Yugoslav Chamber of Economy and other federal, republican and provincial organizations.

Federal, republican and provincial authorities, the Yugoslav Chamber of Economy and other federal, republican and provincial organizations shall give a substantiated opinion as referred to in section 3 of this Article within 30 days from the date of receipt of such a request. If the federal, republican and provincial authorities, the Yugoslav Chamber of Economy and other republican and provincial organizations fail to give their opinion within the prescribed term, their opinion shall be deemed to be positive.

An appeal may be lodged with the Federal Executive Council against a ruling of the federal department responsible for energy and industry on an application for the approval of a joint venture contract within 15 days from the date of service of the ruling.

No administrative litigious proceedings may be conducted against a final ruling on an application for the approval of a joint venture contract.

Before the amendment of the Joint Venture Act procedure for the approval of contracts was very complicated and involved several agencies and bodies with different powers. In addition, there was a special interdepartmental commission which considered the conclusion of such contracts and gave its opinions to the Federal Committee on Energy and Industry.

With the amendment of the Law the procedure has been maximally simplified. The only body responsible for approving joint venture contracts is the Federal Committee on Energy and Industry

and this is the only agency to which contracting parties apply. The Committee may request the opinions of other federal or republican/provincial agencies if it finds it necessary. The agencies requested by the Federal Committee on Energy and Industry to give their opinion are bound so to do within 30 days from receipt of the request. If they fail to give an answer within this period, it is deemed that their opinion is positive. This makes it possible for the Federal Committee on Energy and Industry promptly to conduct the necessary proceedings and to render a ruling within 60 days, as specified by law.

The simplification of the procedure relates also to additional investment or reinvestment. In neither case, if the manufacture of the same products or reinvestment is involved, it is necessary to register a new contract, but only to enter such additional investment or reinvestment into a separate register kept by the Federal Committee on Energy and Industry. In the discussions preceding the amendments, views were expressed that additional investment or reinvestment should require a new contract and its registration. The proposer's view that the formulation offered in the proposed draft prevailed.

Article 51

Once approved, a joint venture contract shall be entered into the register kept by the federal department responsible for energy and industry. Entry into the register shall be made ex officio within 15 days from the date when the ruling on the approval of the joint venture contract becomes final. The following shall be entered into the register: firms or names and seats of the contracting parties, total amount of resources being invested in the joint venture and the participation of the individual contracting parties in such resources, the term for which the contract is entered into, date of the formation of the contract, date of submission of the application for the approval of the joint venture contract, number and date of the ruling on the approval of the joint venture contract and number and date of the ruling on entry into the register.

The federal department responsible for energy and industry shall notify the contracting parties and the competent republican or provincial authority of the entry into the register of the joint venture contract.

With entry into the register a joint venture contract becomes valid as of the day of its formation. Data contained in a joint venture contract and date enclosed in the application for its approval shall be treated as a business secret.

Article 52

An excerpt from the register referred to in Article 51 of the present Law may only be issued if the organization or person demanding such an excerpt has a justified reason for it.

An organization or person wishing to obtain an excerpt from the register shall submit an application in writing with a statement of reasons to the federal department responsible for energy and industry. Detailed rules on the manner of and procedure for the issue of an excerpt from the register shall, as necessary, be issued by the chief officer of the federal department responsible for energy and industry.

Article 53

If a foreign person invests in a domestic organization of associated labour equipment whose imports are regulated, or if a joint venture agreement provides that such equipment is to be purchased from the resources invested by the foreign person, the domestic organization of associated labour may import such equipment on the basis of a consent given by the federal department responsible for energy and industry in agreement with the federal department responsible for foreign trade, in conformity with law.

If a foreign person invests in a domestic organization of associated labour intermediate and raw materials whose imports are regulated, the domestic organization of associated labour may effect such imports on the basis of a consent given by the federal department responsible for foreign trade in agreement with the federal department responsible for energy and industry, in conformity with law.

The consent referred to in sections 1 and 2 of this Article shall be given simultaneously with the ruling on the approval of the joint venture contract, and shall last during the entire period in which the foreign person invests resources as provided for by the joint venture contract.

The domestic organization of associated labour may make use of equipment, intermediate and raw materials imported on the basis of the consent referred to in sections 1 and 2 of this Article, only for the purposes specified in the joint venture contract.

Article 54

Goods whose exports are regulated and which are manufactured on the basis of a joint venture contract, shall be exported on the basis of a consent given by the federal department responsible for foreign trade on the proposal of the federal department responsible for energy and industry, in conformity with law.

The consent referred to in section 1 of this Article shall be given simultaneously with the ruling on the approval of the joint venture contract, and shall be valid for the entire term of the contract.

Article 55

A domestic organization of associated labour which, in conformity with federal regulations, manufactures armaments and military equipment may not negotiate the formation of a joint venture contract before obtaining approval from the federal department responsible for national defence to carry out such negotiations.

Before obtaining approval as provided in section 1 of this Article, an organization of associated labour as referred to in this section may not give a foreign person any information on the production of military equipment and armaments, nor allow the taking of any kind of pictures.

Article 56

A domestic organization of associated labour whose joint venture contract has been approved and entered into the register, shall submit to the federal department responsible for energy and industry, the Yugoslav Chamber of Economy, and the competent republican or provincial authority annual reports on the implementation of such a contract with respect to the business success, imports and exports, technical equipment, application of technology, organization of production, and other important data in connection with the joint venture.

A report as provided in section 1 of this Article shall be submitted by April 30 of the current year for the preceding year.

More detailed provisions concerning the content and submission of the report referred to in section 1 of this Article shall be passed by the federal department responsible for energy and industry in agreement with the Social Accountancy Service.

V. Settlement of disputes

Article 57

Disputes arising out of joint venture contracts formed by domestic organizations of associated labour and foreign persons shall be decided by the competent court of law in Yugoslavia, unless it is provided by a joint venture contract that such disputes shall be decided by the Foreign Trade Arbitration attached to the Yugoslav Chamber of Economy or by some other domestic or foreign arbitration tribunal.

VI. Punitive provisions

Article 58

A fine of from 50,000 to 1,000,000 dinars shall be imposed upon a domestic organization of associated labour for the commission of the following economic violations:

- (1) If it uses equipment, intermediate and raw materials imported on the basis of a joint venture contract for purposes not provided for by such a contract (Article 53, section 4),
- (2) If it imports equipment on the basis of a joint venture contract and then cancels this contract before the expiry of the stipulated time-limit, and if the requirements for the cancellation of the contract referred to in Article 13 of the present Law have not been met.

A fine of from 3,000 to 30,000 dinars shall also be imposed upon the responsible person in a domestic organization of associated labour found guilty of the commission of either of the economic violations referred to in section 1 of this Article.

Article 59

A fine of from 50,000 to 1,000,000 dinars shall be imposed upon a domestic organization of associated labour which manufactures armaments and military equipment if before obtaining approval for carrying out negotiations with a foreign person on the formation of a joint venture contract

carries out such negotiations, or if it supplies a foreign person with information on the production of military equipment and armaments, or if it allows a foreign person to take pictures (Article 55). A fine of from 3,000 to 30,000 dinars shall also be imposed upon the responsible person in a domestic organization of associated labour found guilty of the economic violation referred to in section 1 of this Article.

Article 60

A fine of from 30,000 to 300,000 dinars shall be imposed on a domestic organization of associated labour if it fails to submit an annual report by April 30 of the current year for the preceding year (Article 56).

A fine of from 20,000 to 200,000 dinars shall also be imposed upon the responsible person in a domestic organization of associated labour found guilty of the economic violation referred to in section 1 of this Article.

The amount of fines was increased in line with inflation.

Article 61

A fine of from 20,000 to 200,000 dinars shall be imposed upon a foreign person who fails to report the transfer of assets and liabilities arising from a joint venture contract within 30 days from the date of formation of the transfer contract (Article 37, section 5).

VII. Concluding provisions

Article 62

On the date of the coming into force of the Law on Investment of Resources of Foreign Persons in Domestic Organizations of Associated Labour (Službeni list SFRJ, No. 18/78) the Law on the Investment of Resources of Foreign Persons in Domestic Organizations of Associated Labour (Službeni list SFRJ, No. 12/73) shall cease to be valid, with the exception of the provision of Article 12, section 4, point 7, until the Federal Executive Council had passed a regulation on the authority vested in it under Article 11, section 3 of the Law on Investment of Resources of Foreign Persons in Domestic Organizations of Associated Labour (Službeni list SFRJ, No. 18/78), and so shall the Decree on Detailed Conditions for Investment of Resources of Foreign Persons in Domestic Organizations of Associated Labour (Službeni list SFRJ, No. 26/76), with the exception of the provision of Article 7 of this Decree, which shall remain in force until the Federal Executive Council on the authority vested in it under Article 43 of the Law on Investment of Resources of Foreign Persons in Domestic Organizations of Associated Labour (Službeni list SFRJ, No. 18/78), has adopted an act on the formation of the special commission mentioned in that Article.

APPENDIX 8/2: THE LAW ON LONG-TERM COOPERATION, BUSINESS-TECHNICAL CO-OPERATION AND THE ACQUISITION AND ASSIGNMENT OF THE MATERIAL RIGHT TO TECHNOLOGY BETWEEN ORGANIZATIONS OF ASSOCIATED LABOUR AND FOREIGN PERSONS

I. Basic provisions

Article 1

This Law regulates long-term production cooperation, business-technical cooperation, the acquisition and assignment of the material right to technology between organizations of associated labour and foreign persons.

Article 2

Long term production co-operation, business-technical co-operation, acquisition and assignment of the material right to technology are pursued for the following purposes: integration of the Yugoslav economy in the international division of labour on an equal footing; co-operation with foreign countries and with the developing countries in particular; improvement of the production process; mastering of mass production and export of products thereof; upgrading of the quality of production, assimilation and development of new products; technical-technological development; increased productivity of labour; development of scientific and research activities; improvement of efficiency of operation and utilization of capacities, raw materials and energy; environmental protection; rational increase of exports and reduction of imports; levelling of the balance of payments and the foreign trade balance; improved supply of the domestic market and more stable development of the economy.

Article 3

A contract on long-term production co-operation, a contract on business-technical co-operation, a contract on acquisition of the material right to technology or a contract on assignment of that right must be concluded in writing and for a definite period of time.

The contract which is not concluded in writing and for a definite period of time shall produce no legal effect.

A contract shall become effective after being approved by the federal administrative body competent for energy and industry.

Article 4

Contracts referred to in Article 3 of this Law may not be contrary to the Social Plan of Yugoslavia, agreements on basic principles of the Social Plan of Yugoslavia, the social plan of the republic, i.e. autonomous province, the agreement on the basic principles of the social plan of the republic, i.e. autonomous province or to the social compacts and self-management agreements entered into by the organization of associated labour.

Contracts referred to in Article 3 of this Law and the implementation thereof must be in compliance with the projection of the balance of payments of Yugoslavia, the projection of the foreign exchange balance of Yugoslavia, projection of balance of payments position of the republic, i.e. autonomous province and projection of foreign exchange balance position of the republic, i.e. autonomous province, as well as with the self-management agreement concluded, within the self-management community of interest for foreign economic relations of the republic, i.e. autonomous province, by the organizations of associated labour.

II. Long-term production co-operation

Article 5

Long-term production co-operation between an organization of associated labour and a foreign person is intended to provide in terms of technique, technology, raw materials, energy and economy an optimum production and exchange of products which are the subject of that co-operation, together with application of modern technical achievements.

Article 6

Long-term production co-operation, for the purpose of this Law shall mean long-term co-operation

between a manufacturing organization of associated labour and a foreign person consisting in joint programming of development, mastering of production, manufacturing and mutual deliveries of products and component parts, as follows:

(1) Long-term co-operation wherein the parties deliver to each other component parts which are built into identical products or the same kind of products;

(2) Long-term co-operation wherein the foreign person delivers to the organization of associated labour component parts, while the organization of associated labour delivers to the foreign person the finished product into which it has built those components along with parts manufactured by itself, i.e. long-term co-operation wherein the organization of associated labour delivers to the foreign person component parts, while the foreign person delivers to that organization products into which these component parts are built;

(3) Long-term co-operation wherein the foreign person delivers to the organization of associated labour raw materials, i.e. semi-manufactures, while the organization of associated labour delivers to the foreign person products into which it has built those raw materials, i.e. semi-manufactures;

(4) Long-term co-operation involving mutual deliveries of:

- elements of systems, i.e. facilities which serve to complement, i.e. complete industrial, power, agricultural, transport or other systems, i.e. facilities;
- elements (electronic, pneumatic, hydraulic, precision mechanic and precision electrical engineering, etc.) which serve to complement, i.e. complete monitoring, regulation, control and information systems and installations;

(5) Long-term co-operation wherein the organization of associated labour delivers to the foreign person elements of systems i.e. facilities which serve to complement, i.e. complete systems, i.e. facilities or elements (electronic, pneumatic, hydraulic, precision mechanic, precision electrical engineering, etc.) which serve to complement, i.e. complete monitoring, regulation, control and information systems and installations, while the foreign person delivers to the organization of associated labour a complete facility, i.e. system into which he has built, i.e. installed elements delivered by the organization of associated labour and elements of his own manufacture;

(6) Long-term co-operation wherein the foreign person delivers to the organization of associated labour elements of systems, i.e. facilities referred to in item 5 of this paragraph which serve to complement, i.e. complete systems, i.e. facilities and the organization of associated labour delivers to the foreign person a complete facility, i.e. system into which it has built or installed elements delivered by the foreign person and elements of its own manufacture;

(7) Long-term mutual co-operation in the production and delivery of finished products of the same kind.

Co-operation referred to in items 4-6, para 1 of this Article may be realized only if elements are built into a system or facility which makes a technically and technologically round whole, which is the final product.

Article 7

Component parts, for the purpose of this Law shall mean parts, components, materials and spare parts built into the product which is the subject of long-term production co-operation.

Component parts of one's own manufacture shall be components manufactured by the organization of associated labour-party to the co-operation contract or manufactured by its sub-contractors.

The kind of products, for the purpose of this Law, shall mean products which consist of identical or similar parts and serve the same or similar purpose.

Elements of systems, i.e. facilities shall mean parts of a finished product or finished products which serve the same purpose, the lack of which would affect the performance of the system, i.e. facility.

Article 8

Long-term production co-operation shall also mean long-term production co-operation between one or more organizations of associated labour, and one or more foreign persons from one or more countries (multilateral co-operation).

Article 9

A contract on long-term production co-operation may not provide for the organization of associated labour and the foreign person to manufacture and mutually deliver, within the same period of time, the same kind of component part, i.e. the same kind of product.

Article 10

Co-operation involving exclusively services shall not be considered as long-term production co-operation.

Article 11

An organization of associated labour may, pursuant to regulations, carry out long-term production co-operation either alone or in collaboration with other manufacturing organizations of associated labour providing that it has concluded with them a self-management agreement on long-term production co-operation (sub-contractors).

Article 12

The value of component parts or products imported on the basis of the long-term production co-operation contract may not exceed the value of component parts or products which are exported on the basis of that contract.

Article 13

An organization of associated labour must, together with its sub-contractors, master production of component parts whose value amounts to at least 15% of the unit value of the final product which is the subject of co-operation and is manufactured by that organization.

The federal administrative body competent for energy and industry may, on the basis of a proposal of the competent republican i.e. provincial body, approve a contract on long-term production co-operation even if the percentage envisaged is smaller than the one referred to in paragraph 1 of this Article if it is specified that it will contribute to the attainment of the objectives referred to in Article 2 of this Law.

Article 14

An organization of associated labour shall start manufacturing and delivery of component parts in the percentage referred to in Article 13 of this Law within one year from the date of effectiveness of the contract on long-term production co-operation.

The chief executive of the federal administrative body competent for energy and industry may, at the proposal of the competent republican, i.e. provincial body, give approval that the production and delivery of component parts in the percentage referred to in Article 13 of this Law be accomplished in a period of time longer than the one referred to in paragraph 1 of this Article.

In deciding on the approval referred to in paragraph 2 of this Article, account will be taken of the complexity of the product and of the time required for assimilation of production and purchase or construction of equipment and facilities.

The provision of paragraph 2 of this Article shall not apply to long-term production co-operation the duration of which has been defined to three years by the agreement.

Article 15

An organization of associated labour may conclude a contract on long-term production co-operation only with a foreign person involved in the manufacture of component parts, i.e. products which are the subject of co-operation.

An organization of associated labour may conclude a contract on long-term production co-operation with a foreign person who is not directly involved in the manufacture of component parts i.e. products which are the subject of co-operation if legal regulations of the foreign person's country forbid conclusion of contracts with the foreign person referred to in paragraph 1 of this Article.

A foreign person may also implement the contract referred to in paragraph 1 of this Article by deliveries from his plants located in countries other than the country wherein the parent firm is seated.

Article 16

An organization of associated labour may conclude a contract on long-term production co-operation with a foreign person only if it is qualified to perform operations related to long-term co-operation anticipated by the agreement and it has available, or has secured, an appropriate production technology.

An organization of associated labour is qualified to perform long-term production co-operation operations if it has appropriate personnel and capacities, including equipment, for performance of such operations, or if it has secured appropriate personnel and funds for the construction of capacities or the purchase of equipment.

Qualifications of an organization of associated labour to engage in long-term production co-operation with a foreign person manufacturing armaments and military equipment shall be assessed by the federal administrative body competent for national defence.

Article 17

A contract of long-term production co-operation is concluded for a period of at least five years. The chief executive of the federal administrative body competent for energy and industry may, at the proposal of the competent republican, i.e. provincial body, approve conclusion of a contract on long-term production co-operation with the duration of at least three years.

Approval referred to in paragraph 2 of this Article may be given if the technology involved changes quickly, if the organization of associated labour is itself capable of developing production of the product which is the subject of co-operation, or if co-operation involved has objectives which can be attained in a period shorter than the one referred to in paragraph 1 of this Article.

The authority referred to in paragraph 2, Article 14, of this Law and paragraph 2 of this Article is vested in the chief executive of the federal administrative body competent for national defence with respect to contracts on long-term production co-operation in the field of armaments and military equipment.

Article 18

A contract on long-term production co-operation must ensure for the organization of associated labour to regularly exchange with the foreign party information on all technical and technological innovations and technical advancements related to the subject of co-operation, so as to provide for their timely application by all parties to co-operation in their production.

Article 19

Under conditions anticipated by this Law a contract on long-term production co-operation with a foreign person may be concluded by organizations of associated labour engaged in manufacturing activities.

Under conditions anticipated by this Law a contract on long-term production co-operation in the field of manufacture of armaments and military equipment may be concluded with a foreign person only if such co-operation is conducive to the attainment of interests of the national defence and other specific interests for the sake of which the contract is concluded, which is decided upon by the federal administrative body competent for national defence.

III. Business-technical co-operation

Article 20

Business-technical co-operation, for the purpose of this Law shall mean co-operation between an organization of associated labour and a foreign person involving joint:

- (1) Research and realization of inventions, technical and technological innovations and technical advancements on the basis of a jointly established programme;
- (2) Research, designing and elaboration of documentation for and mastering of the production of a specified product on the basis of a specified material right to technology;
- (3) Market research for the purpose of selling products manufactured jointly (joint-ventures, long-term production co-operation, business-technical co-operation);
- (4) Manufacture of products for joint marketing;
- (5) Operations on foreign markets comprising engineering and other activities, except for operations which involve exclusively purchases and sales of goods and performance of services;
- (6) Maintenance of equipment and instruments and training of personnel for operating such equipment and instruments;
- (7) Scientific research and studies regarding specific issues of interest to the country.

Article 21

An organization of associated labour may conclude a contract on long-term business-technical co-operation with a foreign person:

- (1) If such co-operation is based on modern technical achievements;
- (2) If the organization of associated labour is qualified for production, i.e. performance of services which are subject of co-operation.

(3) If the agreement provides for economy and advancement of production and performance of services.

An organization of associated labour shall be deemed qualified for business-technical co-operation if it has a long-term production and development programme, and if it has secured or given guarantees that it will secure appropriate equipment and other assets, production technology and appropriate personnel.

IV. Acquisition and assignment of material rights to technology

Article 22

Material right to technology, for the purpose of this Law shall mean: the material right to creations and the right to production related technical documentation.

Material right to creations, for the purpose of this Law shall mean: the right to a patent, the right to an industrial sample or model and the right to a trade-mark (factory or commercial or service mark). Right to production-related technical documentation, shall for the purpose of this Law, mean: the right to complete technical and technological documentation for the manufacture of one or several products, a part thereof or of a chemical substance.

Know-how, for the purpose of this Law, shall mean: modern technical and technological knowledge, skills and expertise, including information relating to raw materials specifications, production and processing standards, processing techniques and secrets of one's own procedures, quality control and other data which can be applied in industrial and other kinds of production. Know-how shall also include information and instrumentations relating to production, use and maintenance of products and can also comprise market research technology.

Provisions of this Law pertaining to acquisition and assignment of the material right to technology shall also apply to acquisition and assignment of know-how.

Article 23

An organization of associated labour may conclude a contract on acquisition of the material right to technology only if it provides for the acquisition of modern technology which cannot be acquired in the Socialist Federal Republic of Yugoslavia under approximately the same conditions.

Article 24

A contract of acquisition of the material right to technology must provide for:

(1) A specification of technical and economic objectives which the recipient wishes to achieve by conclusion of the contract and concrete conditions under which the technology transferred will be used in conformity with the nature of the relevant business operation (personnel, equipment, raw-materials, semi-manufactures).

(2) A guarantee by the supplier of technology that the technology transferred, the mode of its transfer and the documentation are complete and that the technology conforms to the achievement of the objectives stipulated by the agreement in view of the circumstances under which it will be applied;

(3) An obligation of the supplier of technology to ensure adequate training of personnel of the recipient of technology for the use thereof, if requested by the recipient;

(4) An obligation of the supplier of technology that he will, over the period of validity of the agreement, keep the recipient informed of, and at the latter's request, place at his disposal all advancements, including applied, i.e. protected, inventions related to the technology transferred, which are available to the supplier of technology, as well as the know-how required for the use thereof;

(5) A possibility for the purpose of raw materials, semi-manufactures, spare parts and equipment related to the technology transferred which are available to the supplier of technology, bearing in mind the level of competitiveness of the prices;

(6) A guarantee by the supplier of technology (in the form of fixed penalties, compensation for damage or some other form) concerning the attainment of results specified in the agreement within the anticipated period of time, providing that the recipient observes the instructions of the supplier of technology;

(7) A guarantee by the foreign person that the use (application) of the material right to technology shall not have a harmful effect on human life and health, i.e. property and environment or instructions

for protection of human life and health, i.e. property and environment against harmful effects, if such an effect may occur;

(8) A guarantee by the supplier of technology that he will compensate any loss incurred by the recipient or a third person as a result of the use of the technology or of the product manufactured by the application of that technology if it has been used in accordance with the provisions of the contract or according to instructions given by the supplier of technology;

(9) Rights and obligations of the contracting parties in the event that the assignment of the material right to technology and the sale of products manufactured thereby have violated the rights of third parties;

(10) A guarantee by the contracting parties that they will consider as business secret all data designated as confidential by the contract.

The federal administrative body competent for energy and industry may, exceptionally, at the proposal of the republican, i.e. provincial body, approve a contract on acquisition of the material right to technology even if it lacks any of the guarantees, i.e. obligations referred to in items 2-10, paragraph 1 of this Article if it is assessed that this will not produce any harmful consequences.

Article 25

Compensation for the technology transferred must be specified in the contract or where this is not possible, the contract must specify all elements required to establish such compensation.

The contract shall particularly specify compensation for elements related to the transfer of know-how, including equipment, other goods and services.

Compensation referred to in paragraph 2 of this Article may not include:

(1) Payment for components, parts of a product or services for which the technology transferred has not been used;

(2) Cumulative payments for parts and complete products;

(3) Increase in compensation per unit of product if the number of units has been increased in excess of the stipulated amounts;

(4) Payment of additional amounts for exports to specified countries.

Article 26

An organization of associated labour may conclude with a foreign person a contract for acquisition of the material right to technology providing that the following requirements have been fulfilled:

(1) If it is, or guarantees that it will be, qualified to manufacture products, i.e. perform services based on the acquired material right to technology;

(2) If the acquisition of the material right to technology ensures promotion and greater economy of production, i.e. performance of services;

(3) If production, i.e. services on the basis of the acquired material right to technology are in conformity with the economic development of the country, as determined by the social plans and agreements on the basic principles of the social plans referred to in paragraph 1, Article 4 of this Law;

(4) If the material right to technology ensures efficient utilization of raw materials and environmental protection;

(5) If conditions have been secured for further promotion of technical and technological development of the acquired material right to technology.

Article 27

An organization of associated labour shall be deemed qualified for production, i.e. performance of services on the basis of the acquired material right to technology if it has a long-term development and production programme, and if it has secured or given guarantees that it will secure appropriate equipment and other assets as well as appropriate personnel.

Article 28

An organization of associated labour shall start production, i.e. performance of services on the basis of the acquired material right to technology within two years from the date of effectiveness of the contract on acquisition of the material right to technology.

The chief executive of the federal administrative body competent for energy and industry may approve that the term referred to in paragraph 1 of this Article be extended beyond two years, having appraised the complexity of the product and the time required for development of the production thereof and for the purchase i.e. construction of the required equipment and facilities.

Article 29

An organization of associated labour may conclude a contract on assignment of the material right to technology if it is not contrary to the defence and security interests of the country, the interests of its economy, nor to other interests of the Socialist Federal Republic of Yugoslavia and providing that it does not violate the rights of third parties.

Article 30

Provision of this Law concerning acquisition of the material right to technology and assignment of that right shall apply to acquisition and assignment of all material rights to technology and to the acquisition and assignment of the right of use only.

Provisions of this Law concerning contracts on acquisition of the material right to technology and assignment of that right also apply to long-term production co-operation contracts and contracts on investment of resources of foreign persons in organizations of associated labour if such contracts also regulate acquisition of the material right to technology and assignment of that right.

V. Conclusions of contracts

Article 31

A contract on long-term production co-operation, a contract on business-technical co-operation and a contract on acquisition of the material right to technology and assignment of that right must, among other details, contain the following: the firms, i.e. names and seats of the contracting parties, the subject of the agreement, the price or elements on the basis of which the price can be determined, date and place of conclusion of the agreement, the date for production start-up and the period for which the agreement is concluded.

A contract on long-term production co-operation must also contain provisions on a joint development programme, mastering of the production, the date of start-up of deliveries of component parts, i.e. products, and a specification of component parts, i.e. products which are the subject of co-operation.

A contract on long-term production co-operation concluded between an organization of associated labour and a foreign person must specify: the currency in which accounting, i.e. payment will be made, and the mode of payment for mutual deliveries of component parts, i.e. products which are the subject of co-operation.

Article 32

A contract on long-term production co-operation may be concluded by a manufacturing organization of associated labour. A business-technical co-operation contract may be concluded by a manufacturing or other basic organization of associated labour. A contract on acquisition of the material right to technology and a contract for assignment of that right may be concluded by a manufacturing organization of associated labour by a basic organization of associated labour which engages in scientific research.

A contract referred to in paragraph 1 of this Article may also be concluded by a work organization and a composite organization of associated labour, in conformity with their respective self-management agreements on association.

If, in conformity with the self-management agreement on association, a contract with a foreign person, referred to in paragraph 1 of this Article, is concluded by a work organization or a composite organization of associated labour, such a contract shall designate one or more manufacturing basic organizations of associated labour, or a basic organization of associated labour engaged in scientific research, as vested with the rights and obligations stemming from that agreement.

A business community may, on behalf of and in the name of an associated manufacturing organization of associated labour or a basic organization of associated labour which is engaged in scientific research conclude with a foreign person a contract referred to in paragraph 1 of this Article, in conformity with the self-management agreement on association in the business community.

The rights and obligations stemming from a contract concluded pursuant to paragraph 4 of this Article are exercised, i.e. discharged by the manufacturing organization of associated labour or the basic organization of associated labour engaged in scientific research designated by the contract. An agreement referred to in paragraph 1 of this Article, which is related to armaments and military equipment required by the Armed Forces of the Socialist Federal Republic of Yugoslavia or, pursuant to a decision of the Federal Executive Council, to the fulfillment of international obligations of the

Socialist Federal Republic of Yugoslavia, shall be concluded by the federal administrative body competent for national defence, i.e. the Federal Directorate for Trade in and Reserves of Special Purpose Products respectively.

The Federal Directorate for Trade in and Reserves of Special Purpose Products may come to terms with an organization of associated labour to conclude, for the needs of that organization, in its name and on its behalf, the agreement referred to in paragraph 1 of this Article relating to armaments and military equipment.

If the objectives of national defence so require, the chief executive of the federal administrative body competent for national defence may, exceptionally, allow an organization of associated labour to conclude an agreement referred to in paragraph 1 of this Article relating to armaments and military equipment.

VI. Approval and registration of the agreement

Article 33

An agreement on long-term production cooperation, an agreement on business-technical collaboration, an agreement on acquisition of the material right to technology and an agreement on assignment of that right, as well as amendments to these agreements and extension of validity thereof are approved by the federal administrative body competent for energy and industry.

The federal administrative body competent for energy and industry shall approve extension of validity of an agreement on long-term production cooperation if that agreement provides for mastering of production of the agreed product to a higher degree and of an agreement on acquisition of the material right to technology if it provides for new technology.

The federal administrative body competent for energy and industry may, at the proposal of the competent republican, i.e. provincial body, exceptionally approve extension of validity of an agreement on long-term production cooperation as well as of an agreement on acquisition of the material right to technology which do not comply with requirements referred to in paragraph 2 of this Article, if the degree of mastering by the domestic production is such that further increase of mastering is considered irrational or if it is aware of another social interest.

An organization of associated labour has to submit an application for approval of an agreement on long-term production cooperation, an agreement on business-technical collaboration, an agreement on acquisition of the material right to technology and an agreement on assignment of that right, an application for amendments to such agreements, i.e. for extension of validity of such agreements within 60 days from the date of conclusion of the agreement.

Article 34

Application for approval of an agreement on long-term production cooperation, an agreement on business-technical collaboration or an agreement on acquisition of the material right to technology submitted by an organization of associated labour has to be accompanied by the following documents, in five copies each:

- (1) The original text of the agreement and certified translation thereof into one of the languages of the nations of Yugoslavia if the agreement has been drawn up in a foreign language;
- (2) An economic-technical-technological study;
- (3) The opinion of the competent republican, i.e. provincial body regarding the justifiability of the conclusion of the agreement and qualifications of the organization of associated labour to implement obligations stemming from these agreements;
- (4) The opinion of the competent body of the Yugoslav Chamber of Economy concerning the concluded agreement and the business reputation and creditworthiness of the foreign contracting party.

Article 35

An organization of associated labour has to attach to its application for approval of an agreement on long-term production cooperation the opinion of the republican, i.e. provincial self-management community of interest for foreign economic relations stating that imports and exports of parts and products to be exported and imported by the organization of associated labour over the period of validity of the agreement, are in conformity with the import and export and the balance of payments position of the republic, i.e. autonomous province concerned.

An organization of associated labour has to attach to its application for approval of an agreement on business-technical collaboration evidence that all payments to the foreign person according to the agreement concluded and payments to be made over the period of validity of the agreement have been recorded with the self-management community of interest for foreign economic relations of the republic, i.e. autonomous province concerned and the opinion of the Yugoslav Institute of Standardization stating that standards of the products which will be manufactured on the basis of the acquired technology are not contrary to Yugoslav standards, unification and typization, except where such products are intended for export.

If the agreement provides for acquisition of the material right to creations, the organization of associated labour has also to attach a certificate of the Federal Patents Office as to whether and in what way the right involved is protected, together with a report on the state-of-art of techniques and technology in the world which can be applied in the manufacture of products to be launched on the basis of the acquired material right to creations.

If the agreement provides for acquisition of a licence for manufacture of a medicament, i.e. pesticides, the organization of associated labour has, instead of the opinion referred to in paragraph 3 of this Article, to obtain a ruling allowing distribution of the medicaments, i.e. pesticides supplied by the federal administrative body competent for labour, health and welfare policy, i.e. federal administrative body competent for agriculture respectively.

An organization of associated labour does not have to attach to its application for the approval of an agreement on acquisition of a trade-mark the opinion of the Yugoslav Institute of Standardization referred to in paragraph 3 of this Article and the report of the Federal Patents Office referred to in paragraph 4 of this Article.

Opinions referred to in Articles 34 and 35 of this Law must be substantiated and supplied within 45 days from the date of receipt of the application.

If the bodies and organizations referred to in Articles 34 and 35 fail to supply their opinion within 45 days from the date of receipt of the application, their opinion shall be deemed positive.

Article 36

An economic-technical-technological study referred to in item (2), Article 34 of this Law includes, in particular:

- (1) Basic data on the domestic organization of associated labour and the foreign person;
- (2) Basic data on technical and technological solutions;
- (3) Data on technologies used for the same kind of production and a statement justifying the selection of technology which is the subject of the agreement; data on productivity of labour, income and profitability of operation, data on elements on the basis of which the price of the technology has been determined; and other data on the economic objective of production to be undertaken according to the agreement, with special reference to other results expected;
- (4) Data on basic raw materials and intermediaries used, energy sources utilized in the process of manufacturing the products according to the agreement and on the ratio of domestic to imported raw materials and intermediaries, and the data on imports of equipment that may be required;
- (5) Data on provision of conditions for conservation and protection of the environment;
- (6) Data on sources of funds required for implementation of the agreement;
- (7) Data on trained personnel and the programme for training them for implementation of obligations undertaken by the agreement;
- (8) Data on provision of technical, technological, energy and raw materials and economic conditions for optimum production;
- (9) Data on marketing possibilities on local and foreign markets;
- (10) Effects of the transaction concluded on the balance of payments position of the republic, i.e. autonomous province concerned.

The economic-technical-technological study ought to reveal that conditions specified in this Law for long-term production cooperation, business-technical collaboration or acquisition of the material right to technology have been observed.

Notwithstanding the provisions of paragraph 1 of this Article an economic-technical-technological study attached to an agreement on acquisition of the right to a trade-mark contains only data referred to in items (6), (8) and (9) of that paragraph.

The chief executive of the federal administrative body competent for national defence may prescribe that such an economic-technical-technological study has to contain other data related to long-term production cooperation, business technical collaboration and acquisition of the material right to technology when concerning armaments and military equipment.

Article 37

An agreement on long-term production cooperation, an agreement on business-technical collaboration or an agreement on acquisition of the material right to technology shall not be approved if it contains provisions which might lead to restriction of business operations, developmental and self-management functions of the organization of associated labour, to unequal i.e. unfavourable conditions for business operations or to inequality of the contracting parties, to restriction of the utilization and development of social, economic and technological potentials, or which might have a harmful effect on the attainment of social development objectives, and in particular:

- (1) If it restricts the domestic organization of associated labour in the application, promotion, complementing and further development of the transferred technology, in protection and application of innovations attained by that organization or in its research and development activities;
- (2) If the supplier of technology retains, according to the agreement, the right to assign the same technology to another organization of associated labour on the territory of the Socialist Federal Republic of Yugoslavia without an appropriate indemnification;
- (3) If it restricts the domestic organization of associated labour in the acquisition of similar technology from other persons;
- (4) If it forbids the domestic organization of associated labour to contest the validity of the transferred or other material rights to creation;
- (5) If it forbids the domestic organization of associated labour to use the transferred technology and sell products or perform services after the expiry of the agreement, i.e. after the expiry of three years from the transfer by the foreign person of the last improvement of the technology acquired;
- (6) If it contains an obligation of the domestic organization of associated labour to pay compensation to the foreign person depending on the turnover of products or services realized after the expiry of the agreement, i.e. after the expiry of three years from the transfer by the foreign person of the last improvement of the technology acquired, except in the case of agreements on the material right to creations, if such rights are protected;
- (7) If it restricts the domestic organization of associated labour to independently decide on the purchase or use of raw materials, intermediaries, spare parts and equipment;
- (8) If it restricts the domestic organization of associated labour to alter or expand the use of the acquired technology or to increase, reduce or reconstruct the production capacities;
- (9) If it forbids the domestic organization of associated labour to independently fix prices of products, to organize a sales network, to use its own marks for products and services; if it imposes an obligation to use a foreign trade-mark or service-mark, trade name or the name of the foreign firm on products or services originating from the technology acquired;
- (10) If the domestic organization of associated labour is forbidden to export or restricted in exporting products or services to specified countries, except to countries wherein the foreign person has established his own manufacture of the products concerned or has granted an exclusive right of manufacture of such products.

The federal administrative body competent for energy and industry may, exceptionally, at the proposal of the competent republican, i.e. provincial body approve an agreement on acquisition of the material right to technology even it contains any of the restrictions referred to in items (1) to (10), paragraph 1 of this Article if it assesses that this will not produce any harmful consequences.

Article 38

Application for approval of an agreement on assignment of the material right to technology submitted by an organization of associated labour has to be accompanied by five copies of:

- (1) The original text of the agreement and certified translation thereof in one of the languages of the nations of Yugoslavia if the agreement has been drawn up in a foreign language;
- (2) The opinion of the competent body of the Yugoslav Chamber of Economy concerning the concluded agreement and the business reputation and creditworthiness of the foreign person.

Article 39

The federal administrative body competent for energy and industry is obliged to render a ruling on an application for the approval of an agreement referred to in paragraph 2, Article 33 of this Law within 60 days from the date of receipt of the application.

Before rendering a ruling the federal administrative body competent for energy and industry has to solicit the opinion of the federal administrative body competent for national defence and the federal

administrative body competent for internal affairs on whether the provisions of the agreement comply with the defence, i.e. security interests of the country. The federal administrative body in charge of affairs in the field of national defence and the federal administrative body in charge of internal affairs ought to communicate their opinion within 30 days from the date of receipt of the relevant request.

A ruling declining an application for the approval of an agreement because of its provisions being contrary to the country's defence and security interests shall be rendered in discretion and need not be substantiated on that particular part.

An appeal against a ruling rendered by the federal administrative body competent for energy and industry on an application for the approval of an agreement may be lodged with the Federal Executive Council within 15 days from the date of service of the ruling.

No administrative litigious proceedings may be initiated against a ruling rendered by the Federal Executive Council on the appeal referred to in paragraph 4 of this Article.

The federal administrative body competent for energy and industry shall communicate its ruling on the approval of an agreement referred to in Article 33 of this Law to the organization of associated labour, the national bank of the republic, i.e. national bank of the autonomous province on whose territory the organization of associated labour which has concluded the agreement has its headquarters; to the republican, i.e. provincial self-management community of interest for foreign economic relations of whose territory the organization of associated labour which has concluded the agreement has its headquarters; to the competent republican, i.e. provincial body, the Yugoslav Chamber of Economy, the federal administrative body competent for national defence, the federal administrative body in charge of internal affairs and the Federal Customs Administration.

A ruling on the approval of an agreement referred to in paragraph 6 of this Article, rendered by the federal administrative body competent for energy and industry shall be accompanied by a copy of the approved agreement and a copy of the approval referred to in Article 46 of this Law, together with the specification and sent to competent republican, i.e. provincial body that has given the opinion on the justifiability of the conclusion of the agreement and qualifications of the organization of associated labour to implement obligations stemming from the agreement, to the national bank of the republic i.e. national bank of the autonomous province and the Federal Customs Administration.

An agreement referred to in Article 33 of this Law becomes effective on the date of entry into force of the approval of the agreement and shall be valid as of the date of its conclusion unless otherwise specified by the agreement.

If the federal administrative body competent for energy and industry does not agree with the opinion of the competent republican, i.e. provincial body on the justifiability of the conclusion of the agreement, a procedure for harmonization of their attitudes will be initiated.

If, after the procedure for harmonization of their attitudes has been carried out, the federal administrative body competent for energy and industry and the competent republican, i.e. provincial body fail to harmonize their attitudes, the federal administrative body competent for energy and industry has to refer to the Federal Executive Council the outstanding issues to decide thereon.

If the federal administrative body competent for energy and industry fails to render its ruling referred to in paragraph 1 of this Article within the stipulated time-limit the agreement shall be deemed approved and that body ought to supply the applicant, at his request, with a confirmation of the expiry of the time-limit within 10 days from the date of submission of a request to that effect.

Article 40

Once approved, an agreement referred to in Article 33 of this Law is inscribed in a special register kept with the federal administrative body competent for energy and industry. Inscription in the register is made ex officio within 15 days from the date of entry into force of the ruling on the approval of the agreement.

The following is inscribed in the special register: firms, i.e. names and headquarters of the contracting parties; subject of the agreement; date and place of conclusion of the agreement; period for which the agreement has been concluded; the time of launching of deliveries for agreements on long term production cooperation, or time of launching of production for agreements on acquisition of the material right to technology; date of submission of the application for the approval of the agreement; number and date of the ruling approving the agreement and of its inscription in the special register.

Data contained in an agreement and in documents attached to the application for their approval constitute an official, i.e. military secret.

Article 41

An excerpt from the register referred to in Article 40 of this Law may be issued only if the organization or the person demanding that excerpt have a justified reason for that.

An organization or person wishing to obtain an excerpt from the register shall submit to the federal administrative body competent for energy and industry a substantiated application to that effect, in writing.

An excerpt from the register referred to in Article 40 of this Law is communicated to the competent republican, i.e. provincial body.

More detailed regulations on the mode and procedure for issuing excerpts from the register are, as necessary, passed by the chief executive of the federal administrative body competent for energy and industry.

Article 42

Agreements referred to in Article 33 of this Law which relate to armaments and military equipment are subject to approval by the federal administrative body competent for national defence. Such agreements are inscribed in special registers kept with the federal administrative body competent for national defence.

The chief executive of the federal administrative body competent for national defence may, if the interests of the national defence so warrant, or if, pursuant to a decision of the Federal Executive Council it is required for fulfillment of international obligations of the Socialist Federal Republic of Yugoslavia, approve necessary departures from requirements concerning conclusion and registration of agreements referred to in Article 33 of this Law which relate to armaments and military equipment.

VII. Implementation of the agreement

Article 43

An organization of associated labour whose agreement has been approved and registered with the federal administrative body competent for energy and industry has to submit annual reports on the implementation of such agreements to that body, the competent republican, i.e. provincial body, the Yugoslav Chamber of Economy and the national bank of the republic, i.e. national bank of the autonomous province on whose territory the organization of associated labour has its headquarters. The report referred to in paragraph 1 of this Article ought to contain data on the implementation of the agreement, debits and credits arising from the agreement, results of financial and business operations, assessment of the implementation of the agreement in the preceding year, and other data of major importance.

A report referred to in paragraph 1 of this Article is to be submitted not later than March 31 of the current year for the previous year.

More detailed regulations regarding the reports referred to in paragraph 1 of this Article are passed by the chief executive of the federal administrative body competent for energy and industry in agreement with the Social Accounting Service and the National Bank of Yugoslavia.

Article 44

An organization of associated labour whose agreement has been approved and registered with the federal administrative body competent for national defence ought to submit to that body annual reports on the implementation of such agreement.

The chief executive of the federal administrative body competent for national defence shall prescribe the contents of the report referred to in paragraph 1 of this Article and the time limit for the submission thereof.

Article 45

The federal administrative body competent for energy and industry shall, upon obtaining the opinion of the competent republican, i.e. provincial body, render a ruling of termination of the validity of the approval of an agreement on long-term production cooperation, an agreement on business-technical collaboration, an agreement on acquisition of the material right to technology or an agreement on assignment of that right and of deletion of such agreements from the register:

(1) If the organization of associated labour ceases to fulfill the requirements foreseen by this Law for conclusion of such agreements;

(2) If the organization of associated labour fails to observe the provisions of the agreement which were the condition for its approval.

An appeal against a ruling rendered in accordance with paragraph 1 of this Article may be lodged with the Federal Executive Council within 15 days from the date of service of the ruling.

Under conditions referred to in paragraph 1 of this Article the federal administrative body competent for national defence shall render a ruling of termination of the validity of the approval and of deletion from the register of the agreement referred to in that paragraph relating to armaments and military equipment.

Article 46

An organization of associated labour may import and export parts and products which are the subject of an agreement on long-term production cooperation according to a specification which represents an integral part of the agreement.

Imports and exports of parts and products referred to in paragraph 1 of this Article are carried out on the basis of an approval issued simultaneously with the approval of the agreement by the federal administrative body competent for energy and industry in agreement with the federal administrative body competent for foreign trade.

Imports and exports of parts and products of armaments and military equipment referred to in paragraph 1 of this Article are carried out on the basis of an approval issued simultaneously with the approval of the agreement by the federal administrative body competent for national defence. The approval referred to in paragraph 2 of this Article is issued for the entire duration of the agreement.

The federal administrative body competent for foreign trade ought to notify the federal administrative body competent for energy and industry of the approval referred to in paragraph 2 of this Article within 30 days from the date of receipt of the request to that effect.

While concluding international agreements the authorized bodies ought to take into account the obligations of organizations of associated labour stemming from agreements on long-term production cooperation with foreign persons.

Article 47

Foreign exchange generated by exports of products and component parts in the implementation of an approved agreement on long-term production cooperation may be used, as a whole, by the organization of associated labour for import of parts, i.e. products within the cooperation up to the amount of foreign exchange generated by exports of products under the agreement, in accordance with this Law and the Law on Foreign Exchange Operations and Foreign Credit Relations.

Foreign exchange generated in accordance with paragraph 1 of this Article may also be used for payment of the compensation for the material right to technology if the acquisition thereof is foreseen by the agreement on long-term production cooperation for the needs of such cooperation.

Article 48

Payments arising from the agreement on long-term production cooperation are made by the organization of associated labour for each cooperation separately, through a special foreign exchange account kept with an authorized bank or through a current account including the right of balancing debits and credits.

The mode of payment pursuant to paragraph 1 of this Article is established by the organization of associated labour and the foreign person jointly, in the agreement.

Payments arising from an agreement on long-term multilateral cooperation and specialization in production, pursuant to Article 54 of this Law, are made by the organization of associated labour through a special foreign exchange account kept with an authorized bank, in accordance with the concluded agreement on long-term multilateral cooperation and specialization in production.

Article 49

The amount of debits, i.e. credits an organization of associated labour may have on its current account is determined for the next year by the organization of associated labour in agreement with the national bank of the republic, i.e. national bank of the autonomous province concerned prior to the expiry of the calendar year with the proviso that the balance of debits, i.e. credits on that account may not exceed 40 per cent of the annual amount of one-way deliveries foreseen by the agreement.

In determining the amount of debits, i.e. credits on the current account for the next year, pursuant to paragraph 1 of this Article, the national bank of the republic, i.e. the national bank of the autonomous province concerned — if it finds that the organization of associated labour has constantly had a debit balance owing to exports falling short of 50 per cent of the quantities foreseen by the agreement, or that it has constantly had a credit balance owing to imports falling short of 50 per cent of the quantities foreseen by the agreement — shall order the organization of associated labour to balance its account within 90 days as regular imports, i.e. exports.

Operations which are, according to paragraphs 1 and 2 of this Article, carried out by the national bank of the republic, i.e. the national bank of the autonomous province, shall be carried out by the National Bank of Yugoslavia — Military Accounting Service with respect to debits, i.e. credits stemming from an agreement on long-term production cooperation relating to armaments and military equipment.

In the case referred to in paragraph 2 of this Article, the national bank of the republic, i.e. the national bank of the autonomous province shall not determine the amount of debits, i.e. credits on the current account for the next year, but shall notify the federal administrative body competent for energy and industry and the competent republican, i.e. provincial body of the order it has issued to the organization of associated labour to balance its account with a view to proceeding as specified in Article 45 of this Law.

A notification given in accordance with paragraph 4 of this Article to the federal administrative body in charge of affairs in the fields of energy and industry and to the competent republican, i.e. provincial body is communicated to the federal administrative body competent for national defence if debits, i.e. credits are stemming from an agreement on long-term production cooperation relating to armaments and military equipment.

The federal administrative body competent for energy and industry, i.e. federal administrative body competent for national defence will not apply measures referred to in Article 45 of this Law if the situation referred to in paragraph 2 of this Article has been brought about by force majeure.

Article 50

Exports and imports in excess of the ratio established by the agreement are governed by regulations applying to regular exports and imports, while debits and credits exceeding the terms specified in Article 49 of this Law and imports of parts, i.e. products which are not covered by foreign exchange on the regular foreign exchange account are governed by the provisions of the Law on Foreign Exchange Operations and Foreign Credit Relations.

Article 51

The national bank of the republic, i.e. the national bank of the autonomous province will keep special records and supervision of debits, i.e. credits arising from agreements on long-term production cooperation in the way prescribed by the National Bank of Yugoslavia.

The national bank of the republic, i.e. the national bank of the autonomous province ought to communicate data from the records referred to in paragraph 1 of this Article to the federal administrative body competent for energy and industry and to the self-management community of interest for foreign economic relations of the republic, i.e. autonomous province concerned.

The records and supervision referred to in paragraph 1 of this Article concerning an agreement on long-term production cooperation relating to armaments and military equipment are kept and exercised respectively by the National Bank of Yugoslavia-Military Accounting Service.

Article 52

Customs treatment of goods imported on the basis of an agreement on long-term production cooperation is performed within the adopted criteria of customs policy, account being taken of the need to ensure the long-term basis and certainty of conditions conducive to the implementation of long-term agreements on production cooperation and specialization.

Article 53

For the purpose of implementing the obligations stemming from agreements on business-technical collaboration and acquisition of the material right to technology between an organization of associated labour and a foreign person, the organization of associated labour provides means of payment in conformity with provisions of the Law on Foreign Exchange Operations and Foreign Credit Relations.

VIII. Recording of the agreement on long-term multilateral cooperation and specialization in production

Article 54

An agreement on long-term multilateral cooperation and specialization in production concluded by an organization of associated labour or a business community or another self-management organization and community on behalf of an organization of associated labour which determines the subject of cooperation, i.e. specialization, programme of deliveries of equipment which is the subject of specialization or cooperation for the duration of the agreement, the mode of formation of prices, development programme of the equipment concerned, obligations of the specializing and non-specializing party in the production and utilization of products which are the subject of the agreement, etc, are recorded with the federal administrative body competent for energy and industry.

An organization of associated labour, business community, another self-management organization or community which concludes an agreement referred to in paragraph 1 of this Article ought to submit application for placing on records of such agreement, an application for placing on records of amendments thereof, i.e. for extension of the agreement, within 60 days from the date of conclusion of the agreement.

Article 55

An application for placing on records of the agreement referred to in Article 54 of this Law has to be accompanied by the original text of the agreement, and if the original text has been drawn up in a foreign language, a certified translation thereof into one of the languages of the nations of Yugoslavia.

Article 56

While concluding international agreements, the authorized bodies ought to take into account obligations of organizations of associated labour stemming from agreements placed on records pursuant to Article 54 of this Law.

IX. Settlement of disputes

Article 57

Disputes arising out of an agreement on long-term production cooperation, an agreement on business-technical collaboration, an agreement on acquisition of the material right to technology and an agreement on assignment of that right between a domestic organization of associated labour and a foreign person are settled by the competent court in Yugoslavia unless it is provided by the agreement that such disputes are to be settled by the Foreign Trade Arbitration with the Yugoslav Chamber of Economy or by another domestic or foreign arbitration.

X. Penal provisions

Article 58

A fine of 5,000 to 5,000,000 dinars for an economic offence shall be imposed upon the organization of associated labour:

- (1) If it does not participate in the manufacture of parts with at least 15 per cent of their value or with a percentage approved by the federal administrative body competent for energy and industry (Article 13, paragraphs 1 and 2);
- (2) If it does not make or collect payments arising from an agreement on long-term production cooperation through a current account (Article 48);
- (3) If the balance on the current account exceeds the prescribed percentage of the annual amount of one-way deliveries foreseen by the agreement (Article 49, paragraph 1).

The responsible person in the organization of associated labour shall also be fined 1,000 to 10,000 dinars for any offences referred to in paragraph 1 of this Article.

Article 59

A fine of 5,000 to 500,000 dinars for an economic offence shall be imposed upon the business community which has concluded an agreement on long-term production cooperation with a foreign person in its own name and on its own behalf or in other person's name and on its behalf (Article 32, paragraph 4).

The responsible person in the business community shall also be fined 1,000 to 10,000 dinars for the offence referred to in paragraph 1 of this Article.

Article 60

A fine of 5,000 to 50,000 dinars for a violation shall be imposed upon the organization of associated labour:

(1) If, within the prescribed time-limit, it fails to submit an application for the approval of an agreement, amendments and extension of validity thereof (Article 33, paragraph 4);

(2) If, within the prescribed time-limit, it fails to submit the report on the implementation of the agreement (Article 43, paragraph 3).

The responsible person in the organization of associated labour shall also be fined 500 to 3,000 dinars for any violation referred to in paragraph 1 of this Article.

XI. Empowerment

Article 61

The Federal Executive Council shall, in agreement with competent republican and provincial bodies pass, as necessary, more detailed regulations concerning the application of Articles 6, 7, 9 and 13 and Articles 33 through 39 of this Law.

Instructions for the application of Articles 47 to 49 of this Law, shall, as necessary, be issued by the National Bank of Yugoslavia in agreement with the chief executive of the federal administrative body competent for energy and industry and the chief executive of the federal administrative body competent for foreign trade.

XII. Transitional and final provisions

Article 62

Agreements on long-term production cooperation, agreements on business-technical collaboration, agreements on acquisition of the material right to technology and agreements on assignment of that right submitted to the federal administrative body competent for energy and industry for approval, i.e. registration prior to the date of publication of this Law, shall be approved according to the previous regulations applied to such agreements with respect to conditions for and the mode of their conclusion while agreements already approved and registered shall be implemented pursuant to regulations which were in force at the time of their approval.

Agreements referred to in paragraph 1 of this Article which relate to armaments and military equipment and which were approved and registered by the federal administrative body competent for national defence prior to the date of publication of this Law, may be implemented pursuant to previous regulations which were in force for such agreements and under conditions under which they were concluded.

If the validity of agreements referred to in paragraphs 1 and 2 of this Article is extended after the expiry of their validity, such agreements ought to be brought into accord with the provisions of this Law.

The provision of paragraph 3 of this Article shall also apply to agreements containing automatic extension clauses.

If the validity of agreements referred to in paragraphs 1 and 2 of this Article expires before a period of three years from the date of entry into force of this Law bringing of such agreements into accord with the provisions of this Law may be carried out within that period.

Amendments to agreements referred to in paragraphs 1 and 2 of this Law made after the date of entry into force of this Law must conform to its provisions.

Article 63

If, after entry into force, of this Law, an agreement on long-term production cooperation is amended with respect to kind and quantities of parts and products which the organization of associated labour will import and export during the period of validity of the agreement, approval for such imports and exports shall be issued in the way and according to the procedure prescribed in Article 46 of this Law.

In submitting an application for the approval referred to in paragraph 1 of this Article, the organization of associated labour has to attach the opinion of the self-management community of interest for foreign economic relations of the republic, i.e. autonomous province stating whether the imports and exports are in conformity with the import and export balance and the balance of payments position of the republic, i.e. autonomous province concerned.

Article 64

On the date of entry into force of this Law the Decree on long-term production cooperation, business-technical collaboration and acquisition and assignment of the material right to technology between organizations of associated labour and foreign persons (Official Gazette of the SFRY, No. 8/87) and the Decree on the mode and conditions for conclusion of agreements on assignment and acquisition of industrial property rights abroad and agreements on business technical collaboration with foreign countries (Official Gazette of the SFRY No. 6/73) shall cease to be valid.

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