AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE BELGO-LUXEMBURG ECONOMIC UNION, ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

Preamble

The Government of the Kingdom of Belgium, acting both in its own name and in the name of the Government of the Grand-Duchy of Luxemburg, by virtue of existing agreements, the Government of the Walloon Region, the Government of the Flemish Region, and the Government of the Region of Brussels-Capital, and

The Government of the Republic of the Philippines, hereinafter referred to as " the Contracting Parties ",

Desiring to strengthen their economic cooperation by creating favourable conditions for investments by nationals of one Contracting Party in the territory of the other Contracting Party,

Recognizing that encouragement and protection of investments will benefit the economic prosperity of both States

Have agreed as follows

Article I. Definitions

For the purpose of this Agreement,

1) " Investor" shall mean:

a) The " nationals ", i.e.,

i) With respect to the Belgo-Luxemburg Economic Union, any natural person who, according to the legislation of the Kingdom of Belgium, or the Grand-Duchy of Luxemburg is considered as a citizen of the Kingdom of Belgium or the Grand-Duchy of Luxemburg;

ii) With respect to the Government of the Republic of the Philippines, citizens of the Philippines within the meaning of its Constitution.

b) The " companies ", i.e., with respect to both Contracting Parties, a legal person constituted on the territory of one Contracting Party in accordance with the legislation of that Party, having its head office on the territory of that Party, or controlled directly or indirectly by the nationals of one Contracting Party, or by legal persons having their head office in the territory of one Contracting Party and constituted in accordance with the legislation of that Party.

2) " Investment " shall mean any kind of asset accepted in accordance with the respective laws and regulations of either Contracting Party, and more particularly, though not exclusively:

a) Movable and immovable property as well as other rights in rem, such as mortgages, liens, pledges, usufructs and similar rights;

b) Shares of stocks and debentures of companies or interest in the property of such companies;

c) Claims to money utilized for the purpose of creating an economic value or to any performance having an economic value;

d) Copyrights, industrial property rights, technical processes, know-how, trademarks and trade names;

e) Business concessions conferred by law or under contract, including concessions to search for, extract or exploit natural resources.

Any admitted alteration of the form in which assets are invested shall not affect their classification as an investment.

3. " Income " shall mean the proceeds of an investment and shall include in particular, though not exclusively, profits, interests, capital increases, dividends and royalties.

4. " Territory " shall mean:

a) With respect to the Belgo-Luxemburg Economic Union, the territory of the Kingdom of Belgium and the territory of the Grand-Duchy of Luxemburg, as well as the maritime areas, i.e. the marine and underwater areas which extend beyond the territorial waters of the State concerned and upon which the latter exercises, in accordance with the international law, its sovereign rights and its jurisdiction for the purpose of exploring, exploiting and preserving natural resources.

b) With respect to the Republic of the Philippines, the national territory as defined in Article I of its Constitution.

Article II. Promotion and Acceptance of Investments

Each Contracting Party shall promote investments in its territory by investors of the other Contracting Party and shall admit such investments in accordance with its Constitution, laws and regulations. Such investments shall be accorded fair and equitable treatment.

Article III. Treatment

1) In all matters relating to treatment of investments, the investors of each Contracting Party shall enjoy most-favoured-nation treatment in the territory of the other Party.

2) Except for measures required to maintain public order, such investments shall enjoy continuous protection and security, i.e. excluding any unjustified or discriminatory measure which could hinder, either in law or in practice, the management, maintenance, use, possession or liquidation thereof.

3) The treatment and protection referred to in paragraphs 1 and 2 shall at least be equal to those enjoyed by investors of a third State and shall in no case be less favourable than those recognized under international law.

4) However, such treatment and protection shall not cover the privileges granted by one Contracting Party to the investors of a third State pursuant to its participation in or association with a free trade zone, a customs union, a common market or any other form of regional economic organization or any international agreement or arrangement relating wholly or mainly to taxation.

Article IV. Expropriation

1. Each Contracting Party undertakes not to adopt any measure of expropriation or nationalization or any other measure having the effect of directly or indirectly dispossessing the investors of the other Contracting Party of their investments in its territory.

2. If reasons of public purpose, security or national interest require a derogation from the provisions of paragraph 1, the following conditions shall be complied with:

a) The measures shall be taken under due process of law;

b) The measures shall be neither discriminatory, nor contrary to any specific commitments;

c) The measures shall be accompanied by provisions for the payment of an adequate and effective compensation in a freely convertible currency.

3. Such compensation shall amount to the market value of the expropriated investment immediately before the impending expropriation becomes public knowledge. The compensation shall be made without delay, and shall be effectively realizable and freely transferable. In the event that payment of compensation is unduly delayed the investor shall receive interest for the period of such delay.

Article V. Losses

Investors of one Contracting Party whose investments suffer losses owing to war, or other armed conflict, revolution, a state of national emergency or revolt in the territory of the other Contracting Party shall be granted by the latter Contracting Party a treatment, as regards restitution, indemnification, compensation or other settlement, at least equal to that which the latter Contracting Party grants to the investors of the most favoured nation. This treatment shall in no case be less favourable

than that recognized under international law.

Article VI. Transfers

1) Each Contracting Party shall grant to investors of the other Contracting Party the free transfer in a freely convertible currency of all payments relating to an investment, including more particularly:

a) Amounts necessary for establishing, maintaining or expanding the investment;

b) Amounts necessary for payments under a contract, including amounts necessary for repayment of loans, royalties and other payments resulting from licences, franchises, concessions and other similar rights, as well as salaries of expatriate personnel;

c) Income from investments and proceeds from the total or partial liquidation of investments, including capital gains or increases in the invested capital;

d) Compensation paid pursuant to Articles IV and V.

2) The nationals of each Contracting Party who have been authorized to work in the territory of the other Contracting Party in connection with an investment shall also be permitted to transfer an appropriate portion of their earnings to their country of origin.

3) Transfers shall be made without undue delay at the exchange rate prevailing on the date of transfer in accordance with the laws, rules and regulations of the Contracting Party which admitted the investment.

Article VII. Subrogation

1) Where one Contracting Party or an agency authorized by the Contracting Party has granted a contract of insurance or any form of financial guarantee against non-commercial risks with regard to an investment by one of its investors in the territory of the other Contracting Party, the latter shall recognize the rights of the first Contracting Party or its agency to be subrogated to the rights of the investor when payment has been made under this contract or financial guarantee by the first Contracting Party or its agency.

2) Where a Contracting Party or its agency has made a payment to its investor and has taken over rights and claims of the investor, that investor shall not, unless authorized to act on behalf of the Contracting Party or the agency making the payment, pursue those rights and claims against the other Contracting Party.

Article VIII. Applicable Regulations

If an issue relating to investments is covered by this Agreement and by the national legislation of one Contracting Party or by international conventions, existing or to be subscribed to by the parties in the future, the investors of the other Contracting Party shall be entitled to avail themselves of the provisions that are the most favourable to them.

Article IX. Specific Agreements

1) Investments made pursuant to a specific agreement concluded between one Contracting Party and investors of the other Contracting Party shall be covered by the provisions of this Agreement and by those of the specific agreement.

2) Each Contracting Party undertakes to ensure at all times that the commitments it has entered into vis-à-vis investors of the other Contracting Party shall be observed.

Article X. Settlement of Investment Disputes between an Investor and a Contracting Party

1) All kinds of disputes or differences, including disputes over the amount of compensation for expropriation or similar measures, between the Contracting Party and an investor of the other Contracting Party concerning an investment or return of investment of that investor in the territory of the other shall be settled amicably through negotiations.

2) If such disputes or differences cannot be settled according to the provisions of paragraph (1) of this Article within six months from the date of request for settlement, the investor concerned may submit the dispute to:

a) The competent tribunal of the Contracting Party in whose territory the investment was made; or

b) The international arbitration of the International Centre for the Settlement of Investment Disputes (ICSID), created by the Convention on the Settlement of Disputes in Respect of Investments Occurring Between States and Nationals of Other States, opened for signature at Washington, D. C. on March 18, 1965. To this end, each Contracting Party agrees in advance and irrevocably to the settlement of any dispute by this type of arbitration. Such consent implies that both Parties waive the right to demand that all domestic administrative or judiciary remedies be exhausted.

3) Once the investor has submitted the dispute to the competent tribunal of the Contracting Party in whose territory the investment was made or to international arbitration, that choice shall be final.

4) For the purpose of this Article, any legal person which is constituted in accordance with the legislation of one Contracting Party, and in which, before a dispute arises, the majority of shares are owned by investors of the other Contracting Party, shall be treated, in accordance with Article 25 (2) (b) of the said Washington Convention, as a legal person of the other Contracting Party.

5) The arbitration decision shall be final and binding on both parties and shall be enforced in accordance with the laws of the Contracting Party in whose territory the investment was made.

6) Once a dispute has ben submitted to the competent tribunal or international arbitration in accordance with this Article, neither Contracting Party shall pursue the dispute through diplomatic channels unless the other Contracting Party has failed to abide or comply with any judgment, award, order or other determination made by the competent international or local tribunal in question.

Article XI. Disputes between the Contracting Parties Relating to the Interpretation or Application of this Agreement

1) Any dispute relating to the interpretation or application of this Agreement shall be settled as far as possible through diplomatic channels.

2) In the absence of a settlement through diplomatic channels, the dispute shall be submitted to a joint commission consisting of representatives of the two Parties; this commission shall convene without undue delay at the request of the first party to take action.

3) If the joint commission cannot settle the dispute, the latter shall be submitted, at the request of either Contracting Party, to an arbitration court set up as follows for each individual case:

Each Contracting Party shall appoint one arbitrator within a period of two months from the date on which either Contracting Party has informed the other Party of its intention to submit the dispute to arbitration. Within a period of two months following their appointment, these two arbitrators shall appoint by mutual agreement a national of a third State as chairman of the arbitration court.

If these time limits have not been complied with, either Contracting Party may invite the President of the International Court of Justice to make the necessary appointment(s).

If the President of the International Court of Justice is a national of either Contracting Party or of a State with which one of the Contracting Parties has no diplomatic relations or if, for any other reason, he cannot exercise this function, the Vice-President of the International Court of Justice shall be invited to make the appointment(s).

4) The court thus constituted shall determine its own rules of procedure. Its decisions shall be taken by a majority of the votes; they shall be final and binding on the Contracting Parties.

5) Each Contracting Party shall bear the costs resulting from the appointment of its arbitrator. The expenses in connection with the appointment of the third arbitrator and the administrative costs of the court shall be borne equally by the Contracting Parties.

Article XII. Previous Investments

This Agreement shall also apply to investments made before its entry into force by investors of one Contracting Party in the territory of the other Contracting Party in accordance with the latter's laws and regulations.

Article XIII. Entry Into Force and Duration

1) This Agreement shall enter into force one month after the date of exchange of the instruments of ratification by the

Contracting Parties. The Agreement shall remain in force for a period of ten years.

Unless notice of termination is given by either Contracting Party at least one year before the expiry of its period of validity, this Agreement shall be tacitly extended each time for a further period of ten years, it being understood that each Contracting Party reserves the right to terminate the Agreement by notification given at least one year before the date of expiry of the current period of validity.

2) Investments made prior to the date of termination of this Agreement shall be covered by this Agreement for a period of ten years from the date of termination.

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

Done at Manilla, Philippines on January 14, 1998 in two original copies, each in the French, Dutch and English languages, all texts being equally authentic. The text in the English language shall prevail in case of difference of interpretation.

For the Belgo-Luxemburg Economic Union:

For the Government of the Kingdom of Belgium Acting Both in its Own Name and in the Name of the Government of the Grand-Duchy of Luxemburg :

For the Government of the Walloon Region:

For the Government of the Flemish Region:

For the Government of the Region of Brussels-Capital:Philippe Maystadt

For the Government of the Republic of the Philippines:Cezar Bautista