Agreement between the Thailand Trade and Economic Office in Taipei and the Taipei Economic Office in Thailand for the Promotion and Protection of Investments

The Thailand Trade and Economic Office (TTEO) in Taipei and the Taipei Economic and Trade Office (TETO) in Thailand, hereinafter referred to as "Contracting Parties";

Desiring to create favourable conditions for greater economic cooperation and investment based on the principle of mutual benefit;

Recognising that the encouragement and reciprocal protection of such investments will be conducive to stimulating business initiative and increasing prosperity;

Have agreed as follows;

Article 1. Definitions

For the purposes of this Agreement:

1. The term "relevant place" shall mean the places of operation to be designated by the respective authorities of the Contracting Parties;

2. The term "investor" shall mean:

(a) Any physical person who is considered as citizen according to the laws and regulations in either relevant place, or

(b) Any company or any juridical person which is incorporated or constituted under the laws in force in either relevant place;

3. The term "investment" shall mean any kind of asset invested by any investor of either relevant place in the other relevant place in accordance with the laws and regulations in force in the latter relevant place and in particular, though not exclusively, includes:

(a) Movable and immovable property as well as other property rights such as mortgages, liens, or pledges,

(b) Shares, stock and debentures of companies wherever incorporated or interests in the property of such companies,

(c) Claims to money or to any performance under contract having financial value,

(d) Intellectual property rights and goodwill,

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

4. The term "returns" shall mean the amounts yielded by an investment and, in particular, though not exclusively, shall include profit, interest, capital gains, dividends, royalties or fees.

5. "expropriation" shall mean nationalisation or confiscation of investments or seizure of or deprivation of any property of investors by the relevant authorities of the relevant places without proper compensation which causes damages arising therefrom to investors.

6. "freely convertible currencies" shall mean any currency that is widely used to make payments for international transactions and widely traded in the international principal exchange markets.

Article 2. Scope of Application of the Present Agreement

1. The benefits of this Agreement shall apply only in cases where the investment by the investors of one relevant place in the other relevant place has been specifically approved in writing and/or registered, as the case may require, by the relevant authority (ies) , and upon such conditions as it (they) deem(s) fit for the purposes of this Agreement.

2. This Article shall apply to all investments made in the relevant places before or after the entry into force of this Agreement.

Article 3. Promotion and Protection of Investments

1. Each Contracting Party shall, having regard to the plans and policies of its relevant place, encourage and facilitate the investment of capital in its relevant place by the investors of the other relevant place.

2. Investments of investors of one Contracting Party in the relevant place of the other Contracting Party shall enjoy the most constant protection and security under the law in the relevant place of the latter Contracting Party.

Article 4. Treatment of Investment

1. Each Contracting Party shall seek and obtain approval from the authorities of its relevant place to the effect that investments by investors of the other relevant place and the returns therefrom shall receive treatment which is fair and equitable and not less favourable than that accorded to investments by investors of any third party.

2. All the provisions of this Agreement relating to the granting of treatment not less favourable than that accorded to the investors of any third party shall be granted only on a reciprocal basis,

Article 5. Exceptions

The provisions of this Agreement relating to the granting of treatment not less favourable than that accorded to the investors of any third party shall not be construed so as to oblige the authority of either relevant place to extend to the investors of the other relevant place the benefit of any treatment, preference or privilege which may be extended by the former relevant place by virtue of:

(a) The formation or extension of a customs union or a free trade area or a common external tariff area or a monetary union or a regional association for economic cooperation; or

(b) The adoption of an agreement designed to lead to the formation or extension of such a union or area within a reasonable length of time; or

(c) Any arrangement with a third party or parties in the same geographical region designed to promote regional cooperation in the economic, social, labour, industrial or monetary fields within the framework of specific projects; or

(d) The granting to a particular investor of the status of a "promoted person" under the law of either relevant place; or

(e) Any international agreement or arrangement, or any domestic legislation, relating wholly or mainly to taxation.

Article 6. Expropriation and Compensation for Losses

Each Contracting Party shall seek and obtain approval from the authorities of its relevant place to the effect that:

1. (a) In any case where investments of an investor from either relevant place are subject, directly or indirectly, to any measure of expropriation, the investor concerned shall be accorded in the other relevant place fair and equitable treatment on a non-discriminatory basis in relation to any such measure. No such measure shall be taken except for public purposes and against payment of compensation. Such compensation shall be adequate, effectively realisable, made without delay and freely transferable in freely convertible currencies.

(b) The legality of any expropriation and the amount and method of payment of compensation shall be subject to review by due process of law.

2. Where investments of an investor of either relevant place in the other relevant place suffer loss owing to war or other armed conflict, revolution, a state of emergency, revolt, insurrection or riot in the other relevant place, the investor concerned shall be accorded treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than would be accorded in the same circumstances to an investor of any third party.

Article 7. Transfers of Investments and Returns

The investors of either relevant place. shall be guaranteed the free transfer of the capital of and the returns from their investments, subject to the right of the other relevant place to exercise equitably and in good faith powers conferred by its laws and regulations, without undue delay in freely convertible currencies at the market rate of exchange prevailing on the date of the transfer.

Article 8. Subrogation

1. If the authority of either relevant place or an agency designated by it makes payment to an investor under a guarantee covering non-commercial risks which it has given in respect of any investment, returns, and/or any part thereof in the other relevant place, the authority of the latter relevant place shall recognise:

(a) The assignment, whether under law or pursuant to a legal transaction, of any right or claim from such an investor to the authority of the former relevant place or its designated agency; and

(b) That the authority of the former relevant place or its designated agency is entitled by virtue of subrogation to exercise the rights and enforce the claims of such an investor.

2. The authority of the former relevant place or its designated agency shall, accordingly, be entitled to assert, if it so desires, any such right or claim to the same extent as its predecessor in title.

3. If the authority of the former relevant place acquires amounts in the lawful currency of the other relevant place or credits thereof by virtue of an assignment under subparagraph (a) of paragraph 1 of this Article, such amounts and credits shall be freely available to the authority of the former relevant place for the purpose of meeting its expenditure in the latter relevant place.

Article 9. Settlement of Disputes between the Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled through consultation or negotiation,

2. If a dispute between the Contracting Parties cannot thus be settled within six months, it shall at the request of either Contracting Party be submitted to an arbitral tribunal on such terms and conditions as the Contracting Parties may agree.

Article 10. Disputes Relating to the Investments

Any dispute between the relevant authorities of one Contracting Party and the investor of the other Contracting Party in connection with the investment, shall, as far as possible, be settled amicably through negotiation between the parties to the dispute. If the dispute cannot thus be settled within six months from the beginning of the negotiations, it shall, at the request of either party to the dispute, be submitted for settlement to an ad hoc arbitral tribunal, if so agreed by both parties to the dispute.

Article 11. Entry Into Force, Duration and Termination

This Agreement shall enter into force on the date of its signature. It shall remain in force for an initial period of ten years. It shall thereafter continue to be in force indefinitely, subject to the right of either Contracting Party to terminate it by twelve months' prior notice in writing to the other Contracting Party, which notice may be given at any time after the expiry of the ninth year. However, with respect to investments approved in writing and/or registered, as the case may require, prior to the date of termination of this Agreement, the provisions of all of the other Articles of this Agreement shall continue to be effective for a period of ten years from such date of termination.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Agreement,

DONE in duplicate, at Taipei, on this thirtieth day of April A.D. 1996, in the English language.

For the Thailand Trade and Economic Office in Taipei

Chaisiri Anamarn

Executive Director

For the Taipei Economic and Trade Office in Thailand

Stephan Hsu

Representative