AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE ARGENTINE REPUBLIC ON THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENT

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

Desiring to intensify economic cooperation between both States;

Intending to create favorable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party, and to increase prosperity in their respective territories;

Recognizing that encouragement and protection of such investments on the basis of an agreement will be conducive to the stimulation of individual business initiative and will benefit the economic prosperity in both states.

Have agreed as follows:

Article I. Definitions

For the purpose of this Agreement:

(1) The term "investment" means, in conformity with the laws and regulations of the Contracting Party in whose territory the investment is made, every kind of asset owned or controlled by, an investor of one Contracting Party in the territory of the other Contracting Party, in accordance with the latter's laws. It includes in particular, though not exclusively:

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

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

c) Claims to money or to any performance having an economic value; loans being included when they are directly related to a specific investment;

d) Copyrights, patents, 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, cultivate, extract or exploit natural resources.

Any alteration of the form in which assets are invested shall not affect their classification as an investment provided that this alteration is not contrary to the laws of the Contracting Party in whose territory the investment has been made.

(2) The term "investor" means:

a) Any natural person who is a national of a contracting Party in accordance with its laws.

b) Legal entities, including companies, associations of companies, trading corporate entities and other organizations that are incorporated or, in any event are properly organized and actually doing business under the laws of the respective Contracting Party and have their headquarters in the territory of the respective Contracting Party where effective management is carried out.

(3) The provisions of this Agreement shall not apply to the investments made by natural persons who are nationals of one Contracting Party in the territory of the other Contracting Party if such persons have, at the time of the investment been domiciled in the latter Contracting Party for more than two years, unless it is proved that the investment was admitted into its territory from abroad.

(4) The term "returns" means the amounts yielded by an investment such as profits, interests, capital gains, dividends, royalties, fees and other current income.

(5) The term "territory" means:

a) With respect to the Government of the Republic of the Philippines, the national territory as defined in its Constitution.

b) With respect to the Government of the Argentine Republic, the national territory including those maritime areas adjacent to the outer limit of the territorial sea of the national territory over which the Argentine Republic may, in accordance with national or international law, exercise sovereign rights or jurisdiction.

(6) This Agreement shall apply to all investments, whether made before or after the date of entry into force of this Agreement, but the provisions of this Agreement shall not apply to any dispute, claim or difference which arose before its entry into force.

Article II. Promotion of Investments

Each Contracting Party shall promote in its territory investments by investors of the other Contracting Party and shall admit such investments in accordance with its laws and regulations.

Article III. Protection of Investments

(1) Each Contracting Party shall at all times ensure fair and equitable treatment of the investments by investors of the other Contracting Party and shall not impair the management, maintenance, use, enjoyment or disposal thereof through unjustified or discriminatory measures.

(2) Each Contracting Party, once it has admitted investments into its territory by investors of the other Contracting Party shall grant full legal protection to such investments and shall accord them treatment which is no less favorable than that accorded to investments by its own investors in accordance with existing laws, rules and regulations or by investors of third States.

(3) The provisions of paragraph (2) of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of:paragraph (2) of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of:

a) Any existing or future free trade area, custom union, common market or similar international agreement to which either of the Contracting Parties is or may become a party;

b) Any international agreement relating wholly or mainly to taxation;

c) The bilateral agreements providing for concessional financing concluded by the Argentine Republic with Italy on 10 December 1987 and with Spain on 3 June 1988.

Article IV. Expropriation

(1) Neither of the Contracting Parties shall take any measure of expropriation, nationalization or any other dispossession having effect equivalent to nationalization or expropriation against investments belonging to investors of the other Contracting Party, unless the measures are taken in the public interest, on a non-discriminatory basis and under due process of law upon prompt, adequate and effective compensation.

(2) The compensation shall be based on the market value of the investments affected immediately before the measure became public knowledge. Where that value cannot be readily ascertained, the compensation may be determined in accordance with generally recognized equitable principles of valuation taking into account the capital investment, depreciation, capital already repatriated, replacement value and other relevant factors. In case of delay of the compensation payment, it shall carry an interest at the appropriate market rate of interest from the date of expropriation or loss until the date of payment.

Article V. Compensation for Losses

Investors of either Contracting Party who suffer losses of their investments in the territory of the other Cont due to war or

other armed conflict, state of national emergency, revolt, insurrection or riot in the nature of a national emergency, shall be accorded with respect to restitution, indemnification, compensation or other settlement, a treatment which is no less favorable than that accorded to its own investors or to investors of any third State.

Article VI. Transfers

(1) Each Contracting Party shall grant to investors of the other Contracting Party the unrestricted transfer of investments and returns thereof and in particular, though not exclusively, of:

a) The capital and additional sums necessary for the maintenance and development of the investments;

b) Gains, profits, interest, dividends and other current income;

c) Fund in repayment of loans as defined in Article 1, paragraph (1), (c);

d) Royalties and fees;

e) The proceeds from a total or partial liquidation of an investment;

f) Compensations provided for in Article IV and V;

g) The earnings of nationals of one Contracting Party who are allowed to work in connection with an investment in the territory of the other Contracting Party.

(2) Transfers shall be effective without delay in freely convertible currency, at the normal applicable exchange rate at the date of the transfer, in accordance with the procedures established by the Contracting Party in whose territory the investment was made, which shall not impair the substance of the rights set forth in this Article.

Article VII. Subrogation

(1) If a Contracting Party or any of its agencies makes a payment to any of its investors under a guarantee or insurance it has contracted in respect of an investment, the other Contracting Party shall recognize the validity of the subrogation in favor of the former Contracting Party or its agency to any right or title held by the investor. The Contracting Party or any agency thereof shall, within the limits of subrogation be entitled to exercise the same rights which the investor would have been entitled to exercise. This does not necessarily imply, however, a recognition on the part of the other Contracting Party of the merits of any case or the amount of any claim arising therefrom.

(2) In the case of subrogation as defined in paragraph (1) above, the investor forfeits its right to pursue a claim unless authorized to do so by the Contracting Party or its agency.paragraph (1) above, the investor forfeits its right to pursue a claim unless authorized to do so by the Contracting Party or its agency.

Article VIII. Consultation

The Contracting Party agrees to consult each other at the request of either Contracting Party on any matter related to investment between the two countries or otherwise affecting the implementation of this Agreement.

Article IX. Application of other Rules

(1) If the provisions of law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties in addition to the present Agreement or if any agreement between an investor of one Contracting Party and the other Contracting Party contain rules, whether general or specific entitling investments by investors of the other Contracting Party to a treatment more favorable than is provided for in the present Agreement, such rules shall, to the extent that they are more favorable, prevail over the present Agreement.

(2) Where a matter is governed simultaneously both by this Agreement and by another international agreement to which Contracting Parties are parties nothing in this Agreement shall prevent either Contracting Party or any of its investors who own investments in the territory of the other Contracting Party from taking advantage of whichever rules are more favorable to the case of the Contracting Party concerned.

(3) If the treatment to be accorded by one Contracting Party to investors of the other Contracting Party in accordance with its laws and regulations or other specific provisions of contracts is more favorable than that accorded by this Agreement, the more favorable shall be accorded.

Article X. Settlement of Disputes between the Contracting Parties

(1) Disputes between the Contracting Parties concerning the interpretation and application of this Agreement shall be settled as far as possible through friendly consultations by both Contracting Parties through diplomatic channels.

(2) If such disputes cannot be settled within six months from the beginning of the negotiations, they shall, at the request of either Contracting Party, be submitted for settlement to an ad hoc arbitral tribunal.

(3) (3) Such an arbitral tribunal shall be constituted in the following way. Within two months upon receipt of the request for arbitration each Contracting Party shall appoint one member of the tribunal. Those two members shall then select a national of a third State who on approval by the two Contracting Parties, shall be appointed Chairman of the tribunal. The Chairman shall be appointed within two months from the date of appointment of the other two members.

(4) If within the periods specified in paragraph (3) of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other arrangement, invite the President of the International Court of Justice to make any necessary appointments. If the President is a national of either Contracting Party or if the is otherwise prevented from discharging the said functions, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he too is prevented from discharging the said function, the member of the International Court of Justice next in seniority who is not a national of either Contracting Party shall be invited to make the necessary appointments.

(5) The arbitral tribunal shall determine its own procedure. The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding upon the Contracting Parties. Each Contracting Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings; the costs of the Chairman and remaining costs shall be borne in equal parts by the Contracting Parties.

Article XI. Settlement of Disputes between an Investor and the Host Contracting Party

(1) Any dispute which arises within the terms of this Agreement concerning an investment between an investor of one Contracting Party and the other Contracting Party shall, if possible be settled amicably.

(2) If the dispute cannot thus be settled within six months following the date on which the dispute has been raised by either party, it may be submitted, upon request of the investor, either to:

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

b) International arbitration according to the provisions of paragraph (3). If an investor has submitted or had agreed to submit a dispute to the aforementioned competent tribunal of the Contracting Party where the investment has been made or to international arbitration, this choice shall be final.paragraph (3). If an investor has submitted or had agreed to submit a dispute to the aforementioned competent tribunal of the Contracting Party where the investment has been made or to international arbitration, this choice shall be final.

(3) In case of international arbitration, the dispute shall be submitted, at the investor's choice, either to:

a) The International Center for the Settlement of Investment Disputes (ICSID) created by the Convention on the Settlement of Investment Disputes between States and Nationals of other States opined for signature in Washington on 18th March 1965.Convention on the Settlement of Investment Disputes between States and Nationals of other States opined for signature in Washington on 18th March 1965.

b) An arbitration tribunal set up from case to case in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL).

(4) The arbitration tribunal shall decide in accordance with the provisions of this Agreement, the laws of the Contracting Party involved in the dispute, including its rules on conflict of law, the terms of any specific agreement concluded in relation to such an investment and the relevant principles of international law.

(5) The arbitral tribunal's decisions shall be final and binding on the parties in the dispute. Each Contracting Party shall execute them in accordance with its laws.

Article XII. Entry Into Force, Duration and Termination

(1) This Agreement shall enter into force on the first day of the following month after the date of the later notification by the

Contracting Parties in writing, through diplomatic channels, that their internal legal requirements for the entry into force of the Agreement have been complied with.

(2) This Agreement shall remain in force for a period of ten (10) years. It shall remain in force thereafter until either Contracting Party notifies the other Contracting Party in writing of the intention to terminate this Agreement. The notice of termination shall become effective one year after the date of notifcation.

(3) In respect of investments made prior to the date when the notice of termination of this Agreement becomes effective, the provisions of Articles 1 to XI shall remain in force for a further period of ten (10) years from the date of termination of the present Agreement.

Done at Buenos Aires, on September 20, 1999, in duplicate, in the Spanish and English languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE ARGENTINE REPUBLIC

FOR THE GOVERNMENT OF THE REPUBLIC OF PHILIPPINES