

AGREEMENT ON RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN

PREAMBLE

The Government of the Republic of the Philippines and the Government of the Islamic Republic of Iran hereinafter referred to as the "Contracting Parties";

Desiring to intensify economic cooperation to the mutual benefit of both States;

Intending to create and maintain favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party;

Recognizing the need to promote and protect investments of the investors of one Contracting Party in the territory of the other Contracting Party, and ensuring that the encouragement and protection of such investments will benefit the economic prosperity of both States;

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement:

1. The term "investments" shall include every kind of assets 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 rights related thereto, such as mortgages, liens, pledges or usufructs;
- b) shares or any kind of participation in companies;
- c) right to claim money or to any performance having an economic value;
- d) copyrights, industrial property rights such as patent, utility models, industrial designs or models, trade or service marks, trade names, know-how and goodwill;
- e) privilege to search for, extract or exploit natural resources as well as other business rights, given by law, by contract or by decision of the authority in accordance with law.

2. The term investor" refers with regard to either Contracting Party to:

- a) Natural persons who according to the laws of that Contracting Party, are considered to be its nationals;
- b) legal entities which are established under the laws of that Contracting Party and have their seat of economic activities in the territory of that Contracting Party;

Who, invest in the territory of the other Contracting Party.

3. The term Admission Certificate":

- a) With respect to the Republic of the Philippines, refers to any Certificate of Registration and/or any approval issued by the appropriate government agency to investors of the Islamic Republic of Iran,
- b) With respect to the Islamic Republic of Iran, refers to a specific document issued by the competent authorities of the

Islamic Republic of Iran to investors of the Republic of the Philippines indicating that their investments have been approved in accordance with the Law for the Attraction and Protection of Foreign Investments (LAPFI) and its implementing regulations or laws and regulations which will succeed to LAPFI. The Admission Certificate may specify certain conditions under which the investment has been admitted.

4. The competent authority in each Contracting Party for issuance of the Admission Certificate is:

a) in the Republic of the Philippines, government agencies duly authorized by law.

b) in the Islamic Republic of Iran

Organization for Investment, Economic and Technical Assistance of Iran (O.I.E.T.A.I.)

15th Khordad Square Tehran.

Iran

Or any other agency which will succeed to the O.I.E.T.A.I.

5. The term "admitted investment" refers to an investment for which an Admission Certificate of either Contracting Party as per paragraph 3 of Article 1 above, has been issued pursuant to the laws and regulations of each Contracting Party.

6. the term 'returns means the amount legally yielded by an Admitted investment and in particular, though not exclusively, includes profit, interest, capital gains, dividends, royalties and fees.

7. The term "territory":

a) With respect to the Republic of the Philippines, means the national territory as defined in Article I of its 1987 Constitution;

b) With respect to the Government of the Islamic Republic of Iran, means the maritime areas adjacent to the coast of the Islamic Republic of Iran as well as continental shelf and the exclusive economic zones, to the extent to which that it may exercise sovereign rights or jurisdiction in those areas according to international law.

Article 2. Promotion of Investments

1. Either Contracting Party shall encourage and create favourable conditions for its investors to invest in the territory of the other Contracting Party.

2. Either Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to invest in its territory in accordance with its laws and regulations.

Article 3. Admission of Investments

1. Either Contracting Party shall issue Admission Certificates/Certificate of investments of investors of the other Contracting Party in its accordance with its laws and regulations.

2. When a Contracting Party shall have issued an Admission Certificate/Certificate of Registration for an investment in its territory, it shall grant all necessary permits for the proper realization of such an investment.

Article 4. Protection and Treatment of Investments

1. Admitted Investments of investors of one Contracting Party effected within the territory of the other Contracting party in accordance with the laws and regulations of the latter, shall receive in the other Contracting Party full legal protection and fair treatment not less favourable than that accorded to its own investor or investors of any third state which are in a comparable situation.

2. If a Contracting Party accords special advantages to investors of any third state by virtue of an agreement establishing a free trade area, a customs union, a common market or a similar regional organization or by virtue of an agreement on the avoidance of double taxation, it shall not be obliged to accord such advantages to investors of the other Contracting Party.

Article 5. More Favourable Provisions

Notwithstanding the terms and conditions set forth in the present Agreement, the more favourable provisions which have

been or may be agreed upon by either of the Contracting Parties with an investor of the other Contracting Party shall apply.

Article 6. Expropriation and Compensation

1. Admitted Investments of investors of one Contracting Party in the territory of the other Contracting Party shall not be expropriated, nationalized or subject, directly or indirectly, to measures of similar effects by the other Contracting Party except for a public purpose, in a non-discriminatory manner, upon payment of prompt, effective and just compensation and in accordance with due process of law.

2. Compensation for expropriation of an Admitted Investment shall be equivalent to the value of investment expropriated immediately before the expropriatory action was taken or became public knowledge, whichever is earlier. Such compensation shall be made without delay, be effectively realizable and be freely transferable.

Article 7. Losses

Investors of either Contracting Party whose Admitted investments suffer losses due to a war or any other armed conflict, revolution, state of emergency or rebellion or other similar events in the territory of the other Contracting Party, shall be accorded by the other Contracting Party treatment no less favourable than that accorded to its own investors or to investors of any other third country, whichever is the most favourable treatment, as regards compensation, restitution and indemnification in relation to such losses.

Article 8. Repatriation And Transfer

1. Each Contracting Party shall within the scope of its laws and regulations; permit in good faith all transfers related to an Admitted Investment to be made freely and without unreasonable delay into and out of its territory. Such transfers include:

- a) returns,
- b) proceeds from the sale or liquidation of all or any part of an Admitted Investment.
- c) compensation pursuant to Articles 6 and 7,
- d) reimbursements and interests deriving from loans in connection with Admitted Investments,
- e) salaries, wages and other remunerations received by the nationals of one Contracting Party who have obtained in the territory of the other Contracting Party the corresponding work permits relative to an Admitted Investment,
- f) payments arising from a dispute relating to an Admitted Investment.

2. Transfers shall be promptly effected in a freely convertible currency and at the exchange rate prevailing on the day the transfer is made.

Article 9. Subrogation

1. If an Admitted investment of an investor of one Contracting Party is insured against non-commercial risks under a system established by law, by an insurance company of that Contracting Party, any subrogation of the insurer which stems from the terms of the insurance agreement shall be recognized by the other Contracting Party.

2. Such insurer shall not be entitled to exercise any rights other than the rights which the investor would have been entitled to exercise.

3. Disputes between a Contracting Party and such an insurer shall be settled in accordance with the provisions, of Article 12 or 13 of this Agreement, as the case may be.

Article 10. Observance of Commitments

Either Contracting Party shall constantly guarantee the observance of the commitments it has entered into with respect to Admitted Investments of investors of the other Contracting Party.

Article 11. Consultation

The Contracting Parties agree to consult each other at the request of either Party on any matter relating to this Agreement.

Article 12. Disputes between a Contracting Party and an Investor

1. All kinds of disputes between a Contracting Party and an investor of the other Contracting Party shall be settled amicably through consultations and negotiations.
2. If the Contracting Party and the said investor(s) cannot reach an agreement within six months after the beginning of the dispute, the latter shall, upon request of either the Contracting Party, subject to their relevant laws and regulations, or the investor(s), be submitted to an arbitral tribunal of three members. Each of the Contracting Party and the investor(s) shall appoint one arbitrator, and these two arbitrators shall nominate a chairman.
3. Either of the Contracting Party or the investor(s) who initiate arbitration shall appoint its arbitrator in the Request for Arbitration. If the Contracting Party or the investor(s) does not appoint its arbitrator within 30 days from the receipt of the request for arbitration, the said arbitrator shall be appointed upon the request of the Contracting Party or the investor(s) as the case may be, by the the Secretary General of the Permanent Court of Arbitration.
4. If the two arbitrators cannot reach an agreement within 60 days from the appointment of the second arbitrator about the choice of the chairman, the latter shall be appointed upon request of either Contracting Party or the investor(s) by the Secretary General of the Permanent Court of Arbitration.
5. The chairman of the arbitral tribunal shall be always a national of a third State having diplomatic relations with both Contracting Parties at the time of the appointment.
6. The arbitration shall be conducted according to UNCITRAL Rules.
7. The place of arbitration shall be determined by the Contracting Parties. If the parties do not reach an agreement within one (1) month from the appointment of the chairman, The Hague will be the final place of arbitration.
8. The decisions of the tribunal are final and binding on the Contracting Parties and the investor(s).
9. Neither Contracting Party shall pursue through diplomatic channels any matter referred to arbitration until the proceedings have terminated and a Contracting Party has failed to abide by or to comply with the award rendered by the tribunal.

Article 13. Settlement of Disputes between the Contracting Parties

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall firstly try to settle it by consultation and negotiation.
2. If the Contracting Parties cannot reach an agreement, within twelve months after the beginning of the dispute, the latter shall, upon request of either Contracting Party, subject to their relevant laws and regulations, be submitted to an arbitral tribunal of three members. Each Contracting Party shall appoint one arbitrator, and these two arbitrators shall nominate a chairman who shall be a national of a third State having diplomatic relations with both Contracting Parties at the time of nomination.
3. The Contracting Party who initiates arbitration shall appoint its arbitrator in the Request for Arbitration. If the other Contracting Party does not appoint its arbitrator within 30 days from the receipt of the request for arbitration, the arbitrator shall be appointed, upon the request of the Contracting Party who has initiated arbitration, by the President of the International Court of Justice.
4. If the two arbitrators cannot reach an agreement within 60 days from the appointment of the second arbitrator about the choice of the chairman, the latter shall be appointed upon request of either Contracting Party by the President of the International Court of Justice.
5. If in the cases specified under paragraphs (3) and (4) of this Article, the President of the International Court of Justice is prevented from carrying out of the said function or if he is a national of either Contracting Party, the appointment shall be made by the vice-president of the International Court of Justice and if the latter is prevented or if he is also a national of either Contracting Party, then the appointment shall be made by the eldest member of the International Court of Justice who is not a national of either Contracting Party.
6. Subject to other provisions made by the Contracting Parties, the tribunal shall determine its procedure and the place of arbitration.

7. The decisions of the tribunal are final and binding on the Contracting Parties

Article 14. Entry Into Force

This Agreement shall enter into force on the day of exchange of the instruments of ratification, notifying each other that they have complied with the legal requirements for entry into force of this Agreement.

Article 15. Duration and Termination

1. This Agreement shall remain in force for a period of ten years and shall continue to stay in force unless terminated in accordance with paragraph 2 of this Article.

2. Either Contracting Party may, by giving one year written notice to the other Contracting Party, terminate this Agreement at the end of the initial ten-year period or at any time thereafter.

3. With respect to investments made or acquired prior to the date of termination of this Agreement, the provisions of all other Articles of this Agreement shall thereafter continue to be effective for a further period of ten years from such date of termination.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement

DONE in duplicate at Manila this 8th day of October 1995 (16th Mehr 1374) in English and Persian: languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN