AGREEMENT BETWEEN THE CZECH REPUBLIC AND THE REPUBLIC OF THE PHILIPPINES FOR THE PROMOTION AND RECIPROCAL PROTECTION OF INVESTMENTS

The Czech Republic and the Republic of the Philippines hereinafter referred to as the Contracting Parties .

DESIRING to intensify economic cooperation between both STATES:

INTENDING to create favourable 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 will benefit the economic prosperity of both States;

HAVE AGREED AS FOLLOWS:

Article I. Definition of Terms

For the Purpose of this Agreement :

1. The term "investment" shall mean any kind of asset invested in connection with economic activities and 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, 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 associated with an investment;

(d) Intellectual property rights, including copyrights, trademarks, patents, industrial designs, technical processes, know-how, trade secrets, trade names and goodwill associated with an investment;

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

Any alteration of the form in which assets are invested and made in accordance with domestic laws and regulations shall not affect their classification as an investment.

2. The term "investors" shall mean any natural or legal person who invests in the territory of the other Contracting Party.

(a) The term "natural person" shall mean:

i. With respect to the Czech Republic, any natural person having the nationality of the Czech Republic in accordance with its laws;

ii. With respect to the Republic of the Philippines, any individual within the meaning of its Constitution.Constitution.

(b) The term "legal person" shall mean, with respect to both countries, legal entities, including companies, associations of companies, trading corporate entities and other organizations that are constituted or incorporated and, 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 term "territory" shall mean:

(a) With respect to the Czech Republic, the territory over which the Czech Republic exercises, in accordance with international law, its sovereign rights and jurisdiction;

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

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

Article II. Promotion and Protection of Investments

1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its territory and, shall admit such investments in accordance with its laws and regulations.

2. Investments of investors of either Contracting Party shall at all times be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party.

Article III. Treatment

1. Each Contracting Party shall in its territory accord to investments or returns of investments of investors of the other Contracting Party treatment not less favourable than that which it accords to investments or returns of investors of any Third State.

2. Each Contracting Party shall in its territory accord to investors of the other Contracting Party, as regards their management, maintenance, use, enjoyment, or disposal of their investments, treatment which is fair and equitable and not less favourable than that which it accords to investors of any Third State.

3. The provisions of this Agreement relative to the grant of treatment not less favourable than that accorded to the investors of any third State shall not be construed as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:

(a) Any existing or future customs union, common market, free trade area or regional economic organization or any agreement leading to the formation of such union or organization or other form of regional economic cooperation;

(b) Any international agreement or arrangement relating wholly or mainly to taxation.

Article IV. Expropriation

1. Each Contracting Party shall not take measures of expropriation, nationalization or dispossession, either direct or indirect or any measure equivalent thereto against investments belonging to investors of the other Contracting Party, unless the measures are taken in the public interest or in the interest of national defense on a non-discriminatory basis and under due process of law and upon prompt payment of just and effective compensation.

2. 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 undue delay and shall be effectively realizable and freely transferable in freely convertible currency.

3. The investor affected shall have a right to prompt review by a judicial or other independent authority of that Contracting Party, of his or its case and of the valuation of his or its investment in accordance with the principles set out in this Article.

Article V. Compensation for Losses

1. When investments by investors of either Contracting Party suffer losses owing to war, armed conflict, a state of national emergency, revolt, insurrection, riot or other similar events in the territory of the other Contracting Party, they shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State.

2. Without prejudice to paragraph 1 of this Article, investors of one Contracting Party who in any of the events referred to in that paragraph suffer losses in the territory of the other Contracting Party resulting from:paragraph 1 of this Article, investors of one Contracting Party who in any of the events referred to in that paragraph suffer losses in the territory of the other Contracting Party resulting from:

(a) Requisitioning of their property by its regular armed forces, police or authorities,

(b) Destruction of their property by its regular armed forces, police or authorities which was not caused in armed conflict or was not required by the necessity of the situation,

Shall be accorded just and adequate compensation for the losses sustained during the period of the requisitioning or as a result of the destruction of the property. Resulting payments shall be freely transferable in freely convertible currency without delay.

Article VI. Transfers

1. The Contracting Parties shall guarantee the transfer of payments related to investments and returns. The transfers shall be made in a freely convertible currency, without any restriction and undue delay. Such transfers shall include in particular, though not exclusively:

(a) Capital and additional amounts to maintain or increase the investment;

(b) Profits, interest, dividends and other current income;

(c) Funds in repayment of duly registered loans;

(d) Royalties or fees;

(e) Proceeds of sale or liquidation of the investment;

(f) The earnings of natural persons subject to the laws and regulations of that Contracting Party where investments have been made.

2. For the purpose of this Agreement, exchange rates shall be the prevailing rates for current transactions at the date of transfer, unless otherwise agreed.

Article VII. Subrogation

1. If a Contracting Party or its designated agency makes payment to its own investors under a guarantee it has accorded in respect of an investment in the territory of the other Contracting Party, the latter Contracting Party shall recognize:

(a) The assignment, whether under the law or pursuant to a legal transaction in that country, of any right or claim by the investor to the former Contracting Party or its designated agency, as well as,

(b) That the former Contracting Party or its designated agency is entitled by virtue of subrogation to exercise the rights and enforce the claims of that investor and shall assume the obligations related to the investment.

2. In respect of subrogated rights or claims of the original investor, the subrogation by the Contracting Party or its agency shall take place upon the presentation of the documentary evidence to the other Contracting Party that the payment to the original investor has been made.

3. The subrogated rights or claims shall not exceed the original rights or claims of the investor.

Article VIII. Consultation

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

Article IX. Settlement of Disputes between a Contracting Party and an Investor of Another 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 either to:paragraph (1) of this Article within six months from the date of request for settlement, the investor concerned may submit the dispute either

to:

(a) The competent court of the Contracting Party for decision; or

(b) The International Centre for the Settlement of Investments Disputes established under the Convention on the Settlement of Investment Disputes between States and Nationals of other States, of March 18, 1965 done in Washington,D.C.; orConvention on the Settlement of Investment Disputes between States and Nationals of other States, of March 18, 1965 done in Washington,D.C.; or

(c) An arbitrator or international ad hoc arbitral tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL). The parties to the dispute may agree in writing to modify these Rules. The arbitral awards shall be final and binding on both Parties to the dispute.Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL). The parties to the dispute may agree in writing to modify these Rules. The arbitral awards shall be final and binding on both Parties to the dispute.

3. Once a dispute has been 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 by or comply with any judgement, award, order or other determination made by the competent international or local tribunal in question.

Article X. Settlement of Disputes between 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 date on which either Contracting Party informs in writing the other Contracting Party, they shall, at the request of either Contracting Party, be submitted for settlement to an ad hoc international arbitral tribunal.

3. The ad hoc international arbitral tribunal mentioned above shall be established as follows: The arbitral tribunal is composed of three arbitrators. Each Contracting Party shall appoint one arbitrator; the two arbitrators shall propose by mutual agreement the third arbitrator who is a national of a third State which has diplomatic relations with both Contracting Parties, and the third arbitrator shall be appointed as Chairman of the tribunal by both Contracting Parties.

4. If the appointments of the members of the Arbitral Tribunal are not made within a period of six months from the date of request for arbitration, either Contracting Party may, in the absence of any other arrangement, invite the President of the International Court of Justice to make the necessary appointments within three months. Should the President be a national of one Contracting Party or should he not be able to perform this designation because of other reasons, this task shall be entrusted to the Vice-President of the Court, or to the next senior Judge of the Court who is not a national of either Contracting Party.

5. The Arbitral Tribunal shall determine its own procedure. The Arbitral Tribunal shall decide its award by majority of votes. Such award is final and binding upon the Contracting Parties.

6. Each Contracting Party shall bear the cost of its own member of the panel and of its representative in the arbitral proceedings. The costs of the Chairman and the remaining costs shall be borne in equal parts by the Contracting Parties.

Article XI. Application of other Rules and Special Commitments

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

2. 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 favourable than that accorded by this Agreement, the more favourable shall be accorded.

Article XII. Applicability of this Agreement

The provisions of this Agreement shall apply to future investments made by investors of one Contracting Party in the territory of the other Contracting Party, as well as to investments existing in accordance with the laws of the Contracting

Parties on the date of this Agreement coming into force.

Article XIII. Protocol

The Protocal between the Czech Republic and the Republic of the Philippines in Annex I forms an integral part of this Agreement.

Article XIV. Entry Into Force, Duration and Termination

1. Each of the Contracting Parties shall notify the other of the completion of the procedures required by its law for bringing this Agreement into force. This Agreement shall enter into force on the thirtieth (30th) day after the date of the latter notification.

2. This Agreement shall remain in force for a period of ten years. Thereafter, it shall remain in force until the expiration of the twelve-month period from the date either Contracting Party notifies the other in writing of its intention to terminate the Agreement.

3. In respect of investments made prior to the termination of this Agreement, the provisions of this Agreement shall continue to be effective for a period of ten years from the date of termination.

Done in duplicate, at Manila on the 5th day of April 1995 in Czech, Pilipino and English languages, all texts being equally authentic.

FOR THE CZECH REPUBLIC

FOR THE REPUBLIC OF THE PHILIPPINES

The Czech Republic and The Republic of the Philippines

Have agreed at the signing of the Agreement between Czech Republic and the Republic of the Philippines for Promotion and Reciprocal Protection of Investments upon following provisions which form an integral part of the said Agreement.

1. With respect to treatment, (Article IIII. the Contracting Parties shall accord to the investors and to the investments once admitted the treatment which is not less favourable than they grants to its own investors in accordance with the laws and regulations of the Contracting Party.

2. With respect to compensation mentioned in Expropriation (Article IV) it is understood that such compensation shall include interest from the date of exPropriation until the date of payment.

3. With respect to Transfers (Article VI) it is the understanding of the Contracting Parties that the provisions of this Article shall not prevent either Contracting Party from taking tempOrary measures, applied on "erga omnes" basis, which are necessary to solve the balance of payments difficulties and are in accordance with the provisions of the international agreements to which both of the Contracting Parties adhere to.

The Protocol has been done in duplicate, at Manila on the 5th day of April 1995 in Czech, Pilipino and English languages. all texts being equally authentic.

FOR THE CZECH REPUBLIC

FOR THE REPUBLIC OF THE PHILIPPINES