AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF HUNGARY AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA FOR THE PROMOTION AND PROTECTION OF INVESTMENT

The Government of the Republic of Hungary and the Government of the Republic of Indonesia /hereinafter referred to as "Contracting Parties"/;

Bearing in mind the friendly and co-operative relations existing between the two countries and their peoples;

Intending to create favourable conditions for investments by investors of one Contracting Party in the territory of the other Contracting Party on the basis of mutual benefit; and

Recognizing that the promotion and protection of such investments will be conducive to the stimulation of individual business initiative and to foster prosperity in both countries;

Have agreed as follows:

Article 1. Definitions

For the purpose of this Agreement, the following terms shall have the following meanings:

1. "Investment" means any kind of asset invested by investors of one Contracting Party in the territory of the other Contracting Party in conformity with the laws and regulations of the latter, including but not exclusively:

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

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

(c) Claims to money or to any performance related to an investment having a financial value;

(d) Intellectual property rights including copyright, trade marks, patents, industrial designs, know-how, trade secrets, trade names and goodwill.

2. "Investors" means any natural person or company being a national of a Contracting Party who effected or is effecting investments in the territory of the other Contracting Party.

3. "Nationals" means:

(a) A person who is according to the laws of a Contracting Party a national of that Contracting Party;

(b) A company, which is according to the laws of a Contracting Party a national company of that Contracting Party as determined in paragraph 4 of this Article.

4. "Companies" means:

(a) In respect of the Republic of Hungary:

Juridical persons or companies or associations, whether or not with limited liability and whether or not for pecuniary profit, incorporated in the territory of the Republic of Hungary and existing in accordance with its laws;

(b) In respect of the Republic of Indonesia:

Any company with a limited liability incorporated in the territory of the Republic of Indonesia or any juridical person constituted in accordance with its laws.

5. "Returns" or "incomes" means the amounts yielded by an investment and in particular, though not exclusively, includes

profit, interest, capital gains, dividends, royalties or fees.

6. "Territory" means:

(a) In respect of the Republic of Hungary:

"Hungary" when used in a geographical sense means the territory of the Republic of Hungary;

(b) In respect of the Republic of Indonesia:

"Indonesia" comprises of the territory of the Republic of Indonesia as defined in its laws and the adjacent areas over which the Republic of Indonesia has sovereign rights or jurisdiction in accordance with the provisions of the United Nations Convention on the Law of the Sea, 1982.

Article II. Promotion and Protection of Investment

1. Either Contracting Party shall encourage and create favourable conditions for nationals or companies of the other Contracting Party to invest in its territory, and shall admit such investment in accordance with its laws and regulations.

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

Article III. Scope of Agreement

This Agreement shall apply to investments by investors of the Republic of Hungary in the territory of the Republic of Indonesia which have been previously granted admission in accordance with the law No. 1 of 1967 on Foreign Capital Investment and any law amending or replacing it; and to investments by investors of the Republic of Indonesia in the territory of the Republic of Hungary, which have been admitted in accordance with Decree No. 28/72 of the Minister of Finance on Economic Associations with Foreign Participation and Act XXIV of 1988 on the Investment of Foreigners in Hungary and any law amending or replacing them at or after the entry into force of this Agreement.

Article IV. Most-favoured-nation Provisions

1. Neither Contracting Party shall in its territory subject investment effected by, and income accruing to, investors of the other Contracting Party to treatment less favourable than that which it accords to investments effected by, and income accruing to investors of any third State.

2. Neither Contracting Party shall in its territory subject investors of the other Contracting Party, as regards their management, use, enjoyment or disposal of their investment, as well as to any economic activity connected with these investments, to treatment less favourable than that which it accords to investors of any third State.

3. The treatment mentioned above shall not apply to any advantage or privilege accorded to investors of a third State by either Contracting Party based on the membership or that Contracting Party in a Custom Union, Common Market, Free Trade Zone, any economic multilateral or international agreement, or based on an Agreement concluded between that Contracting Party and a third State on Avoidance of Double Taxation or based on a cross-border trade arrangement.

Article V. Compensation for Damages and or Losses

Investors of one Contracting Party, whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, state of national emergency, revolt, insurrection or riot in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party treatment, as regards restitutions, indemnification, compensation or other settlement, not less favourable than that which the latter Contracting Party accords to its own nationals or companies or to investors of any third State.

Article VI. Expropriation

1. Investments of nationals or companies of either Contracting Party shall not be nationalized, expropriated or subjected to measures having effect equivalent to nationalization or expropriation /hereinafter referred to as "expropriation"/ in the territory of the other Contracting Party except for a public purpose related to the internal needs of the expropriating Contracting Party under due process of law, on a non-discriminatory basis and against full, prompt and effective compensation.

Such compensation shall amount to the market value of the investment expropriated prior to the moment in which the decision to expropriate is announced or made public. Such amount shall be calculated according to the method agreed upon by both Contracting Parties that is in conformity with internationally acknowledged evaluation standard methods. Compensation shall be made without undue delay, effectively realizable and freely transferable. The amount and the method of payment of compensation shall be subject to review by due process of law in accordance with the existing laws and regulations of the expropriating Contracting Party.

2. Where a Contracting Party expropriates the assets of a company which is incorporated or constituted under the law in force in any part or its territory, and in which nationals or companies of the other Contracting Party own shares, it shall ensure that the provisions of paragraph 1 of this Article are applied to the extent necessary to guarantee the compensation provided for in that paragraph to the owners of these shares.paragraph 1 of this Article are applied to the extent necessary to guarantee the compensation provided for in that paragraph to the owners of these shares.

Article VII. Repatriation of Investment

1. Either Contracting Party shall within the scope of its laws and regulations in respect to investment by investors of the other Contracting Party grant to those investors without unreasonable delay and after they have complied with all their tax obligations, the transfer of:

(a) Capital and additional capital amounts used to maintain and increase investments;

(b) Net operating profits including dividends and interests in proportion to the share-holding of the foreign participant;

(c) Repayment of any loan and the relevant interest thereof, as far as it is related to the investment;

(d) Payment of royalties and services fees as far as it is related to the investment;

(e) Proceeds from sales of shares owned by the foreign share-holders;

(f) Compensation for damages or losses;

(g) Compensation for expropriation;

(h) Proceeds received by investors in case of liquidation;

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

2. To the extent an investor of either Contracting Party has not made another arrangement with the appropriate authorities of the other Contracting Party in whose territory the investment is situated, currency transfer made pursuant to paragraph 1 of this Article shall be permitted in the currency of the original investment or in any other freely convertible currency. Such transfer shall be made at the prevailing rate of exchange on the date of transfer with respect to the current transaction in the currency to be transferred.

3. Notwithstanding the preceeding paragraphs, either Contracting Party may maintain laws and regulations requiring reports of currency transfers.

Article VIII. Subrogation

In case one Contracting Party or any, of its designated agency has granted any guarantee against non-commercial risks in respect of an investment by its investor in the territory of the other Contracting Party and has made payment to such investor under that guarantee, the other Contracting Party shall recognize the transfer of the rights of such investor to the former Contracting Party or any of its designated agency. The subrogation of the latter shall not exceed the original rights of such investor. As regards the transfer of payments to be made to the other Contracting Party by virtue of such subrogation, the provision of Article VI and VII shall apply respectively.

Article IX. Settlement of Dispute between Investors and the Contracting Parties

1. Any dispute arising between a Contracting Party and the investor of the other Contracting Party, shall be settled as amicably as possible.

2. In the event that such a dispute cannot be settled amicably within six months from the date of a written notification, the investor in question may submit the dispute, for settlement to:

(a) The Contracting Party's Court, at all instances, having territorial jurisdiction;

(b) The "International Centre for the Settlement of Investment Disputes", for the application of the arbitration procedures provided by the Washington Convention of 18th March 1965 on the "Settlement of Investment Disputes between States and Nationals of other States" according to Article 25 of the Convention.

3. While arbitration of proceedings instituted for the settlement of such a dispute are in progress, both Contracting Parties shall refrain from any intervention.

Article X. Settlement of Dispute between the Parties Concerning Interpretation and Application of the Agreement

1. Disputes concerning the interpretation or implementation of this Agreement shall be settled amicably through diplomatic negotiation between the Parties.

2. If a dispute between the Par-ties cannot thus, be settled, it shall upon the request of either Party be submitted to an arbitral tribunal.

3. Such an arbitral tribunal shall be constituted for each individual case in the following way. Within two months of the receipt of the request for arbitration, each 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 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 Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make any necessary appointments. If the President is a national of either Party or if he is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either 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 Party shall be invited to make the necessary appointments.

5. The tribunal shall determine its own procedure. The arbitral tribunal shall reach its decisions by a majority of votes. Such decision shall be binding on both Parties. Each Party shall bear the cost of its own member of the tribunal and of its representation in the arbitral proceedings; the cost of the Chairman and the remaining costs shall be borne in equal parts by the Parties. The tribunal may, however, in its decision direct that a higher proportion of cost shall be borne by one of the two Parties, and this award shall be binding on both Parties.

Article XI. Application of other Provisions

Whenever any issue is governed by this Agreement and by any other agreement to which both Contracting Parties are parties, the more favourable provisions shall be applied to investors.

Article XII. Entry Into Force Duration and Termination

1. The present Agreement shall enter into force three months after the notification between the Contracting Parties of the accomplishment of their respective internal applicable procedures of ratification and execution. It shall remain in force for a period of ten years and shall, continue in force thereafter for another period of ten years and so forth unless terminated in writing by either Contracting Party one year before its expiration.

2. In respect of investments made prior to the date of termination of the present Agreement, the provisions of Article I to XI shall continue to be effective for a further period of ten years from the date of termination of the present Agreement.

IN WITNESS WHEREOF, the undersigned duly authorized thereto, have signed this Agreement. DONE in duplicate at Jakarta on May 20, 1992 in the English language.

For the Government of the Republic of Hungary

Dr. István Major

Deputy Secretary of State Ministry of International Economic Relations

For the Government of the Republic of Indonesia

Wisber Loeis

Director General for Foreign Economic Relations Department of Foreign Affairs