

May 18, 1994

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF ROMANIA FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

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

DESIRING to intensify economic cooperation between both Contracting Parties;

INTENDING to create favourable conditions for investments by nationals and companies of one Contracting Party in the territory of the other Contracting Party, and;

RECOGNIZING that encouragement and protection of such investments will enhance the economic prosperity of both Contracting Parties;

HAVE AGREED AS FOLLOWS :

ARTICLE 1 DEFINITIONS

For purposes of this Agreement :

1) The term " investment" means every kind of assets owned. by an investor of one Contracting Party, including goods, rights and financial means, invested in the territory of the other Contracting Party in accordance with its laws and regulations. The term includes in particular, but not exclusively :

- a) movable and immovable property as well as any other rights in rem;
- b) shares, stocks and debentures and other forms of participation in companies incorporated in the territory of one Contracting Party;
- c) reinvested returns;
- d) claims to money and other rights relating to contracts or other obligations having financial or economic value;
- e) intellectual and industrial property rights, including rights with respect to copyrights, trademarks, trade names, patents, technological processes, know-how, good will and other similar rights;
- f) concessions conferred by law or by virtue of a contract, particularly the concession related to exploration, extraction and exploitation of natural resources.

Any alteration of the form in which assets are invested or reinvested shall not affect their character as investment.

2) The term " investor" means any national or company of a Contracting Party who effected or is effecting investments in the territory of the other Contracting Party

3) The term "territory" means

- a) with respect to Romania, the territory of Romania, continental shelf and economic exclusive zone, on which Romania exercises sovereignty, sovereign rights or jurisdiction in accordance with international law;
- b) with respect to the Republic Of the Philippines, the national territory as defined in Article I of its Constitution.

4) The term "nationals" means :

- a) with respect to Romania, natural persons who, according to its laws, are considered to be its citizens;
- b) with respect to the Republic of the Philippines, citizens of the Philippines within the meaning of Article IV of its Constitution.

5) The term "companies" means :

- a) with respect to Romania, legal entities which are constituted or otherwise duly organised under the law of Romania and have their seat, together with real economic activities in the territory of Romania;
- b) with respect to the Republic of the Philippines, corporations, partnerships or other associations, incorporated or constituted and actually doing business under the laws in force in any part of the territory of that Contracting Party wherein a place of effective management is situated.

6) The terra "returns" means the amounts yielded by an investment, and in particular though not exclusively, includes profits, dividends, interest, capital gains, royalties, management and technical assistance or other fees, irrespective of the form in which the return is paid.

ARTICLE 2 PROMOTION AND PROTECTION OF INVESTMENT

1) Each Contracting Party shall promote, encourage and create favourable conditions for investments made in its territory by investors of the other Contracting Party.

2) Investments shall be admitted in accordance with the Constitution, laws and regulations of the Contracting Party in the territory of which the investment is made and shall enjoy the protection and guarantees provided for in this Agreement.

3) Each Contracting Party undertakes to provide in its territory a fair and equitable treatment for investments of investors of the other Contracting Party. Neither Contracting Party shall in any way impair by arbitrary, unreasonable or discriminatory measures the management, maintenance or use of investments as well as the right to the disposal thereof.

4) Investors of either Contracting Party shall be permitted to engage top managerial and technical personnel of their choice, regardless of nationality, to the extent permitted by laws of the host Contracting Party. Subject to the relevant laws and regulations, nationals of either Contracting Party shall be permitted to enter and to remain in the territory of the other Contracting Party for the purpose of establishing and administering their investment.

5) Each Contracting Party undertakes to provide effective means of asserting claims and enforcing rights with respect to investment agreement, investment authorizations and properties. Each Contracting Party shall not impair the right of the investors of the other Contracting Party to have access to its courts of justice, administrative tribunals and agencies and all other bodies exercising adjudicators authority.

ARTICLE 3 MOST FAVOURED NATION TREATMENT

1) Each Contracting Party shall accord to the investments made in its territory by investors of the other Contracting Party a treatment not less favourable than that which it accords in like situations to investments of investors of any third State,

2) Each Contracting Party shall accord to the investors of the other Contracting Party, as regards their management, maintenance, use or disposal of their investments a treatment not less favourable than that which it accords to investors of any third State.

3) The provisions of this Agreement relating to the granting of the most favoured nation treatment shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the advantages resulting from :

a) any existing or future customs union, common market, free trade area, or regional economic organization or arrangements leading to the formation of a customs union or a free trade area of which either Contracting Party is or may become a member, or

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

ARTICLE 4 EXPROPRIATION

1) Investments made territory of the by investors of one Contracting Party in other Contracting Party shall not be expropriated, nationalized or subjected to other measures having similar effect (hereinafter referred to as "expropriation") unless the following conditions are fulfilled :

a) the measures are adopted in the public Interest or any other grounds provided for by law of each expropriating party and in accordance with due process of law;

b) the measures are not discriminatory compared to the measures taken against the investments and investors of any third State;

c) a proper procedure is established to determine the amount and manner of payment of compensation.

2) The compensation shall correspond to the value of the investment subjected to expropriation and should be prompt, adequate and effective.

3) The amount of compensation shall be determined in accordance with recognized principles of valuation.