

January 14, 1998

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF
THE PHILIPPINES AND THE BELGO-LUXEMBURG ECONOMIC
UNION, ON THE RECIPROCAL PROMOTION AND PROTECTION OF
INVESTMENTS**

PREAMBLE

The Government of the Republic of the Philippines,

and

The Government of the Kingdom of Belgium, acting both in its own name and in the name of the Government of the Grand-Duchy of Luxemburg, by virtue of existing agreements, the Government of the Walloon Region, the Government of the Flemish Region, and the Government of the Region of Brussels-Capital, hereinafter referred to as "the Contracting Parties",

Desiring to strengthen their economic cooperation by creating favourable conditions for investments by nationals of one Contracting Party in the territory of the other Contracting Party,

Recognizing that encouragement and protection of investments will benefit the economic prosperity of both States;

Have agreed as follows:

**ARTICLE I
DEFINITIONS**

For the purpose of this Agreement,

1) "Investor" shall mean:

a) the "nationals", i.e.,

i) With respect to the Government of the Republic of the Philippines, citizens of the Philippines within the meaning of its Constitution.

ii) with respect to the Belgo-Luxemburg Economic Union, any natural person who, according to the legislation of the Kingdom of Belgium, or the Grand-Duchy of Luxemburg is considered as a citizen of the Kingdom of Belgium or the Grand-Duchy of Luxemburg;

b) the "companies", i.e., with respect to both Contracting Parties, a legal person constituted on the territory of one Contracting Party in accordance with the legislation of that Party, having its head office on the territory of that Party, or controlled directly or indirectly by the nationals of one Contracting Party, or by legal persons having their head office in the

territory of one Contracting Party and constituted in accordance with the legislation of that Party.

2) "Investment" shall mean any kind of asset 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 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;

d) copyrights, 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, extract or exploit natural resources.

Any admitted alteration of the form in which assets are invested shall not affect their classification as an investment.

3) "Income" shall mean the proceeds of an investment and shall include in particular, though not exclusively, profits, interests, capital increases, dividends and royalties.

4) "Territory" shall mean:

a) With respect to the Republic of the Philippines, the national territory as defined in Article 1 of its Constitution.

b) With respect to the Belgo-Luxemburg Economic Union, the territory of the Kingdom of Belgium and the territory of the Grand-Duchy of Luxemburg, as well as the maritime areas, i.e. the marine and underwater areas which extend beyond the territorial waters of the State concerned and upon which the latter exercises, in accordance with the international law, its sovereign rights and its jurisdiction for the purpose of exploring, exploiting and preserving natural resources.

ARTICLE II PROMOTION AND ACCEPTANCE OF INVESTMENTS

Each Contracting Party shall promote investments in its territory by investors of the other Contracting Party and shall admit such investments in accordance with its Constitution, laws and regulations. Such investments shall be accorded fair and equitable treatment.

ARTICLE III TREATMENT

1) In all matters relating to treatment of investments, the investors of each Contracting Party shall enjoy most-favoured-nation treatment in the territory of the other Party.

2) Except for measures required to maintain public order, such investments shall enjoy continuous protection and security, i.e. excluding any unjustified or discriminatory measure which could hinder, either in law or in practice, the management, maintenance, use, possession or liquidation thereof.

3) The treatment and protection referred to in paragraphs 1 and 2 shall at least be equal to those enjoyed by investors of a third State and shall in no case be less favourable than those recognized under international law.

4) However, such treatment and protection shall not cover the privileges granted by one Contracting Party to the investors of a third State pursuant to its participation in or association with a free trade zone, a customs union, a common market or any other form of regional economic organization or any international agreement or arrangement relating wholly or mainly to taxation.

ARTICLE IV EXPROPRIATION

Each Contracting Party undertakes not to adopt any measure of expropriation or nationalization or any other measure having the effect of directly or indirectly dispossessing the investors of the other Contracting Party of their investments in its territory.

If reasons of public purpose, security or national interest require a derogation from the provisions of paragraph 1, the following conditions shall be complied with:

- a) the measures shall be taken under due process of law;
- b) the measures shall be neither discriminatory, nor contrary to any specific commitments;
- c) the measures shall be accompanied by provisions for the payment of an adequate and effective compensation in a freely convertible currency.

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 delay, and shall be effectively realizable and freely transferable. In the event that payment of compensation is unduly delayed the investor shall receive interest for the period of such delay.

ARTICLE V LOSSES

Investors of one Contracting Party whose investments suffer losses owing to war, or other armed conflict, revolution, a state of national emergency or revolt in the territory of the other Contracting Party shall be granted by the latter Contracting Party a treatment, as regards restitution, indemnification, compensation or other settlement, at least equal to that which the latter Contracting Party grants to the investors of the most favoured nation. This treatment shall in no case be less favourable than that recognized under international law.

ARTICLE VI TRANSFERS