

June 17, 1988

RP-ITALY AGREEMENT ON ENCOURAGEMENT AND RECIPROCAL PROTECTION OF INVESTMENTS

The Government of the Republic of the Philippines and the Government of the Republic of Italy, hereinafter referred to as "the Contracting Parties",

DESIRING TO intensify economic cooperation between both countries;

INTENDING to create favourable conditions for investments by investors of either country; and

RECOGNIZING that encouragement and protection of such investments will benefit the economic prosperity of both countries.

HAVE AGREED AS FOLLOWS:

ARTICLE I

Each Contracting Party shall promote as far as possible the investments in its territory by investors of the other Contracting Party, admit such investments according to its laws and regulations and accord such investments equitable and reasonable treatment.

ARTICLE II

For the purpose of this Agreement:

(1) The term "investment" means 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 any other rights in rem, such as mortgages, liens, pledges, usufructs and similar rights;
- (b) shares, stocks and debentures of companies or interests 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 process, 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.

(2) The term "returns" means the amounts yielded by an investment for a definite period of time as profits, interests, capital gains, dividends, royalties, fees and other legitimate returns.

(3) The term "investor" means a citizen of each of the Contracting Parties under their respective laws or a corporation, partnership or other association incorporated or constituted in conformity with national legislation including interest association, irrespective of whether their responsibility is limited or not, whose seat and management is in the territory of the respective Contracting Parties.

(4) The term "territory" means, in addition to the land within its boundary limits, also the territorial sea. The latter includes the territorial waters and the subsoil below such waters, upon, which the Contracting Parties exercise their sovereignty, sovereign rights, or jurisdictional rights, in accordance with international law.

ARTICLE III

(1) Each Contracting Party shall in its territory accord investments or returns 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 investors of the other Contracting Party, as regards their management, maintenance, use, enjoyment or disposal of their investments, treatment not less favourable than that which it accords to investors of any third State.

(3) The treatment mentioned above shall not apply to any advantage accorded to investors of a third State by either Contracting Party based on the membership of that Contracting Party in an existing or future Customs Union, Common Market, Free Trade Zone, regional economic cooperation, economic multilateral international Agreement or based on an Agreement concluded between that Contracting Party and a third State on avoidance or double taxation, or for facilitation of frontier trade or any domestic legislation relating wholly or mainly to taxation.

ARTICLE IV

(1) Investments or returns of investors of either Contracting Party shall not be nationalized, expropriated or subjected to measures having an effect equivalent to nationalization or expropriation, inter alia legally independent measures of dispossession or taking, (all hereinafter referred to as "expropriation") in the territory of the other Contracting Party except for public use or for public interest, including national welfare or defense, and against prompt adequate and effective compensation, provided that such measures are taken on a non-discriminatory basis and in accordance with law.

(2) Such compensation shall amount to the market value of the investments affected immediately before the measure of expropriation occurred became public knowledge and shall be made without undue delay, be effectively realizable and be freely transferable.

ARTICLE V

Investors of either Contracting Party whose investments suffer losses in the territory of the other Contracting Party owing to war, other armed conflicts, or to other incidents considered as such by international law, shall be accorded by the latter Contracting Party treatment no less favourable than that which this Party accords to investors of any third State with regard to restitution, indemnification or compensation. Resulting payments shall be freely transferable.