

**AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND  
THE PORTUGUESE REPUBLIC ON THE PROMOTION AND  
PROTECTION OF INVESTMENTS**

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

Desiring to intensify the economic co-operation between the two States,

Intending to encourage and create favourable condition for investments made by investors of one Contracting Party in the territory of the other Contracting Party on the basis of equality and mutual benefit,

Recognising that the mutual promotion and protection of investments on the basis of this Agreement will stimulate business initiative, and promote economic prosperity.

Have agreed as follows:

**ARTICLE 1  
DEFINITIONS**

For purpose of this Agreement,

1. The term "investments" shall mean every kind of assets and rights invested by the investors of one Contracting Party in the territory of the other Contracting Party in accordance with the laws and regulations of the latter including, in particular, 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, debentures, or other forms of interest in the equity of companies or other forms of participation and/or economic interests;

c) Claims to money or to any other rights having an economic value;

d) Intellectual property rights such as copyrights, patents, utility models, industrial designs, trade marks, trade names, trade and business secrets, technical processes, know-how and good will;

e) Concessions conferred by law under a contract or administrative act of a competent state authority, including concessions for prospecting, research and exploitation of natural resources;

f) Assets that are placed at the disposal of a lessee, in the territory of a Contracting Party under a leasing agreement and

in conformity with its laws and regulations.

Any alteration of the form in which assets are invested shall not affect their character as investment, provided that such a change is in accordance with the laws and regulations of the Contracting Party in which territory the investment was made.

2. The term "returns" shall mean the amount yielded by investments, over a given period, in particular, though not exclusively, shall include profits, dividends, interests, royalties or other forms of income related to the investment including technical assistance fees.

In cases where the returns of investments, as defined above, are reinvested, the income resulting from the reinvestment shall also be considered as income related to the first investment.

The returns of investments shall be subject to the same protection given to investment.

3. The term "investors" shall mean:

a) With respect to the Republic of the Philippines:

i. citizens of the Philippines within the meaning of its Constitutions.

ii. Legal entities, including companies, associations of companies, trading corporate entities and other organizations that are incorporated or, 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.

b) With respect to the Portuguese Republic:

i. natural persons having the nationality of Portugal, in accordance with its laws and regulations, and

ii. legal persons, including corporation, commercial companies or other companies or associations, which have a main office in the territory of Portugal, are incorporated or constituted and operate in accordance with its laws and regulations.

4. The term "territory" shall mean:

The land territory, the internal waters, the territorial sea, the continental shelf and all the other areas upon which the Parties exercise their sovereignty, sovereignty rights or jurisdictional rights in accordance with the international law.

## **ARTICLE 2 PROMOTION AND PROTECTION OF INVESTMENTS**

1. Each Contracting Party shall promote and encourage, as far as possible, within its territory investments made by investors of the other Contracting Party and shall admit such investments into its territory in accordance with its laws and regulations. It shall in any case accord such investments fair and equitable treatment.

2. Investments made by investors of one Contracting Party in the territory of the other Contracting Party in accordance with its laws and regulations shall enjoy full protection and security in the territory of the latter.

Neither Contracting Party shall in any manner impair by reasonable, arbitrary or discriminatory measures the management, maintenance, use, enjoyment, or disposal of investments in the territory of investors of the other Contracting Party.

### **ARTICLE 3 NATIONAL AND THE MOST FAVOURED NATION TREATMENT**

1. Investments made by investors of one Contracting Party in the territory of the other Contracting Party, shall be accorded treatment which is fair and equitable and not less favourable than the latter Contracting Party accords to the investments of its own investors or investments of investors of any third State.

2. Both Contracting Parties shall accord to investors of the other Contracting Party, as regards management, maintenance, use, enjoyment or disposal of their investments made in its territory, treatment which is fair and equitable and not less favourable than the latter Contracting Party accords to its own investors of any third State.

3. The provisions of this Article shall not be construed so as to oblige one Contracting Party to extend to the investors of the other Contracting Party the benefit of any treatment, preference or privilege which may be extended by the former Contracting Party by virtue of:

- a) existing or future free trade area, customs union, common market or other similar international agreements including other forms of regional economic co-operation to which either of the Contracting Parties is or may become a Party, and
- b) any international agreement or arrangement relating wholly or mainly to taxation.

### **ARTICLE 4 EXPROPRIATION**

1. Investment made by investors of either Contracting Party in the territory of the other Contracting Party shall not be expropriated, nationalized or subject to any other measure with effects equivalent to expropriation or nationalization (hereinafter referred to as expropriation) except by virtue of law for a public purpose, on a non-discriminatory basis and upon prompt payment of just compensation.

2. Such compensation shall amount to the fair market value of the investment expropriated immediately before the expropriation or the impending expropriation became known in such a way as to affect the value of the investment (hereinafter referred to as the "valuation date").

3. Such fair market value shall be calculated in a freely convertible currency on the basis of the market rate of exchange existing for that currency on the valuation date. Compensation shall be paid promptly and include interest at a commercial rate established on a market basis from the date of expropriation until the date of payment.

4. The investor whose investments are expropriated, shall have the right under the law of the expropriating Contracting Party to the prompt review by a judicial or other competent authority of that Contracting Party of its case and of valuation of its investments in accordance with the principles set out in this Article.

## **ARTICLE 5 COMPENSATION FOR LOSSES**

Investors of either Contracting Party whose investments suffer losses in the territory owing to war, revolution, a state of national emergency, revolt, insurrection, other armed conflicts or other similar events considered as such by international law, in the territory of the other Contracting Party shall be accorded treatment no less favourable by the latter Contracting Party than that Contracting Party accords to the investments of its own investors, or of any third State, whichever is more favourable, as regards restitution, indemnification, compensation or other settlement for valuable consideration. Any payment made under this Article shall be, without delay, freely transferable in convertible currency.

## **ARTICLE 6 TRANSFERS**

1. Pursuant to its own laws and regulations, each Contracting Party shall guarantee investors of the other Contracting Party the free transfer of payments related to their investments, in particular, though not exclusively:

- a) capital and additional amounts necessary to maintain or increase the investment;
- b) the returns defined in Paragraph 2, Article 1 of this Agreement;
- c) funds in service, repayment and amortization of loans, recognized by both Contracting Parties to be an investment;
- d) the proceeds obtained from the sale or from the total or partial liquidation of the investment;
- e) any compensation or other payment referred to in Articles 4 and 5 of this Agreement;