

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF
THE PHILIPPINES AND THE GOVERNMENT OF THE KINGDOM OF
THAILAND FOR THE PROMOTION AND PROTECTION OF
INVESTMENTS**

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

Considering the Agreement among the Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand for the Promotion and Protection of Investments done in" Manila on 15th December 1987.

Desiring to intensify economic cooperation between both countries,

Intending to create favourable condition for investments by nationals and companies of one Contracting Party in the territory of the other Contracting Party,

Recognising that the encouragement and protection of such investments under this Agreement will be conducive to the stimulation of individual business initiative and will increase prosperity in both countries,

Convinced of the friendly and cooperative relations existing between both Contracting Parties,

Have agreed as follows:

**ARTICLE 1
DEFINITIONS**

For the purposes of this Agreement:

1. The term "investment" shall mean every kind of assets invested by nationals and companies of one Contracting Party in the territory of the other Contracting Party, in accordance with the Respective laws and regulations of the latter Contracting Party, including, in particular, but not exclusively:

- a) movable and immovable property and any other property rights such as mortgages, liens, pledges, and usufructs;
- b) shares, stocks and debentures of companies or interests in the property of such companies;
- c) claims to money or to any performance under contract having financial value;
- d) intellectual and industrial property rights, patents, trade marks, technical processes, know how, goodwill and any other similar rights; and
- e) business concessions conferred by law or under contract, including concessions to search for, cultivate, extract, or exploit natural resources.

Any alteration of the form in which assets are invested shall not affect their character as an investment, provided that such alteration has also been approved or admitted under Article 2.

2. The term "nationals" shall mean:

a) in respect of the Republic of the Philippines, any natural person who is a citizen of the Republic of the Philippines according to its Constitution.

b) in respect of the Kingdom of Thailand, any natural person who possesses Thai nationality under the law in force in the Kingdom of Thailand;

3. The term "companies" shall mean:

a) in respect of the Republic of the Philippines, legal entities, including companies, associations of companies, trading corporate entities and other organizations that are incorporated or constituted or registered as juridical persons under the law of the Republic of the Philippines.

b) in respect of the Kingdom of Thailand any juridical person incorporated or constituted under the law in force in the Kingdom of Thailand whether or not limited liability and whether or not for pecuniary profit;

4. The term "returns" shall mean amounts yielded by an investment, ticularly, though not exclusively, profits, interest, capital gains, dividends, alties or fees.

5. The term "freely usable currencies" shall mean currencies that the International Monetary Fund determines, from time to time, as freely usable currencies in accordance with the Articles of Agreement of the International Monetary Fund and amendments thereafter.

6. The term "host country" shall mean the Contracting Party wherein the investment is made.

7. The term "territory" shall mean:

a) with respect to the Republic of the Philippines, comprising the Philippine archipelago, with all the islands and waters embraced therein, and all. other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines;

b) with respect to the Kingdom of Thailand, the national territory of the Kingdom of Thailand including the maritime areas, seabed and subsoil, over which the Kingdom of Thailand exercises, in accordance with international law, sovereign rights or jurisdiction.

ARTICLE II

APPLICABILITY OR SCOPE

1. This Agreement shall apply only to investments, brought into, derived from or directly connected with investments brought into the territory of one Contracting Party by nationals or companies of the other Contracting Party, as well as to investments made prior to the entry into force of this Agreement, and which are specifically approved in writing or admitted, where applicable, by the competent authority of the host country and upon such conditions as it deems fit for the purposes of this Agreement;

2. This Agreement shall not affect the rights and obligations of the Contracting Parties with respect to investments which, under the provisions of paragraph 1 of this Article, do not fall within the scope of the Agreement.

ARTICLE III GENERAL OBLIGATIONS

1. Each Contracting Party shall, having regard to its plan and policies, encourage and create favourable conditions in its territory for investments from the other Contracting Party. All investments to which this Agreement relates shall, subject to this Agreement, be governed by the laws and regulations of the host country, including rules of registration and valuation of such investments.

2. Investments of nationals or companies of one Contracting Party in the territory of the other Contracting Party, and also the returns therefrom, shall at all times be accorded fair and equitable treatment and shall enjoy the constant protection and security in the territory of the host country.

3. Each Contracting Party shall observe any obligation arising from a particular commitment it may have entered into with regard to a specific investment of nationals or companies of the other Contracting Party.

ARTICLE IV TREATMENT OF INVESTMENTS

1. Investments made by nationals or companies of either Contracting Party in the territory of the other Contracting Party, as also the returns therefrom, shall be subject to a treatment no less favourable than that accorded to investments and returns made by its own nationals or companies or by the nationals or companies of any third State, whichever is more favourable to the nationals and companies, in areas allowed by existing laws, rules and regulations.

2. Each Contracting Party shall in its territory accord to nationals or companies of the other Contracting Party as regards the management, use, enjoyment or disposal of their investments made in accordance with the host country's existing laws, rules and regulations, treatment which is fair and equitable and no less favourable than that which it accords to its own nationals and companies or to the nationals and companies of any third State.

ARTICLE V EXCEPTIONS

The provisions of this Agreement relative to the granting of treatment no less favourable than that accorded to the nationals or companies of either Contracting Party or to the nationals or companies of any third State shall not be construed so as to oblige one Contracting Party to extend to the nationals or companies of the

other Contracting Party the benefit of any treatment, preference or privilege resulting from:

- a) the formation or extension of a customs union or a free trade area or a common external tariff area or a monetary union or a regional association for economic cooperation or a regional arrangement for specific projects; or
- b) the adoption of an agreement designed to lead to the formation or extension of such a union or area within a reasonable length of time; or
- c) any international agreement or arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.

ARTICLE VI COMPENSATION

Nationals or companies 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 same Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement for the investment suffered, no less favourable than that accorded to its own nationals or companies or to the nationals or companies of any third State, whichever is more favourable to the nationals or companies.

ARTICLE VII EXPROPRIATION

1. a) In any case where investments of a national or company of one Contracting Party are subjected, directly or indirectly, to any measure of expropriation, or nationalization or any measure equivalent thereto, the national or company concerned shall be accorded in the territory of the other Contracting Party fair and equitable treatment on a non-discriminatory basis in relation to any such measure. No such measure shall be taken except for public purposes and against payment of compensation. Such compensation shall amount to the market value of the investments affected, immediately before the measure became public knowledge and it shall be made without delay and freely transferable in freely usable currency from the host country.

- b) The legality of any expropriation and the amount and method of payment of compensation shall be subject to review by due process of law.

2. Where a Contracting Party expropriates assets of a company which is incorporated or constituted under the law in force in any part of its territory, and in which a national or company of the other Contracting Party owns shares, it shall ensure that the provisions of paragraph 1 of this Article are applied to the extent necessary to guarantee compensation as specified therein to such national or company of the other Contracting Party who is the owner of those shares.

ARTICLE VIII FREE TRANSFER