

AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE KINGDOM OF THE NETHERLANDS FOR THE PROMOTION AND PROTECTION OF INVESTMENTS

The Government of the Republic of the Philippines and the Government of the Kingdom of the Netherlands

Desiring to strengthen the traditional ties of friendship between their countries, to extend and intensify their economic relations, and to encourage investments on the basis of equality and to the mutual benefit of both countries,

Have agreed as follows:

ARTICLE 1

For purposes of this Agreement:

(a) the term "territory" means:

- (i) with respect to the Republic of the Philippines, the territory defined in Article 1 of its Constitution;
- (ii) with respect to the Kingdom of the Netherlands, the territory which constitute the Kingdom of the Netherlands.

It includes the maritime areas adjacent to the coast of the Contracting Party concerned, to the extent to which that Party may exercise sovereign rights or jurisdiction in those areas according to international law.

(b) the term "nationals" shall comprise, with regard to a particular Contracting Party, of:

- (i) natural persons having the nationality of that Contracting Party in accordance with its laws;
- (ii) without prejudice to the provisions of (iii) hereafter, legal persons constituted in accordance with the law of that Contracting Party 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;
- (iii) legal persons controlled, directly or indirectly, by nationals of that Contracting Party but constituted in accordance with the law of the other Contracting Party.

(c) the term "investment" shall comprise every kind or asset of lawful commerce and more particularly, though not exclusively, includes:

- (i) movable and immovable property as well as any other property rights such as mortgages, liens, and pledges;

(ii) shares, stocks, and debentures or any interest in the property of nationals;

(iii) claims to money or to any performance having a financial value;

(iv) intellectual and industrial property rights, technical processes, knowhow and goodwill;

(v) business concessions conferred by law or under contract in accordance with or pursuant to law.

(d) the term "earnings" shall mean amounts yielded by an investment, particularly, though not exclusively, profits, interest, capital gains, dividends, royalties or fees.

ARTICLE 2

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 of the other Contracting Party in conformity with the former Party's laws and regulations, including due registration with the appropriate agencies of the receiving Contracting Party, if so required by its laws.

ARTICLE 3

1. Each Contracting Party shall encourage and create favorable conditions for investments, consistent with its national objectives, of nationals of the other Contracting Party, subject to the laws and regulations of the Party in whose territory the investment is made, including rules on registration and valuations of such investments, if any.

2. Investments of nationals of either Contracting Party shall, in their entry, operation, management, maintenance, use, enjoyment or disposal, be accorded fair and equitable treatment and shall enjoy full protection and security in the territory of the other Contracting Party.

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 of the other Contracting Party.

ARTICLE 4

1. Each Contracting Party shall extend to investments, in its territory, of nationals of the other Contracting Party treatment no less favorable than that granted to investments of nationals of any third State.

2. The provisions of this Agreement relative to the grant of treatment no less favorable than that accorded to investments of nationals of any third State shall not be construed as to oblige one Contracting Party to extend to the nationals of the other Contracting Party the benefit of any treatment, preference or privilege resulting from:

(a) any existing or future customs union, common market, free trade area, or regional economic organization of which either Contracting Party is or may become a member;