

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF
THE PHILIPPINES AND THE GOVERNMENT OF THE REPUBLIC OF
FRANCE ON THE RECIPROCAL PROMOTION AND PROTECTION OF
INVESTMENTS**

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

Desiring to strengthen the economic cooperation between both States and to create favourable conditions for French investments in the Philippines and Philippine investments in France,

Convinced that the promotion and protection of these investments would succeed in stimulating transfers of capital and technology between the two countries in the interest of their economic development,

Have agreed as follows:

ARTICLE 1

For purposes of this Agreement:

1. The term "investment" means every kind of goods, rights and interest of whatever nature, in particular though not limited to the following:

- a) Movable and immovable property as well as any other right in rent such as mortgages, liens, usufruct, pledges and similar rights;
- b) Shares, stocks and debentures of a company constituted in the territory of one Contracting Party and any other form of interest in a company, including premium on share, minority or indirect holdings;
- c) Title to money or debentures, or title to any legitimate performance having an economic value;
- d) Copyrights, industrial property rights (such as patents, licenses, trademarks, industrial models and mockups), technical processes, tradenames and goodwill;
- e) Business concessions conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources which are located in the territory of the Contracting Parties.

It is understood that those investments are investments which have already been made or may be made subsequent to the entering into force of this Agreement in the territory of a Contracting Party in accordance with the legislation of that Contracting Party.

Any alteration of the form in which assets are invested shall not affect their qualification as investments provided that such alteration is not in conflict with the legislation of the Contracting Party in the territory of which the investment is made.

2. The term "nationals" means physical persons possessing the nationality of either Contracting Party.

3. The term "company" means any 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.

4. The term "returns" means all amounts produced by an investment, such as profits, interests, capital gains, dividends, royalties, fees and other legitimate returns.

Investment returns and, in case of re-investment, reinvestment returns shall enjoy the same protection as the investment.

5. This Agreement shall apply to the territory of each Contracting Party. The term "territory" means:

a) with respect to the Republic of the Philippines, the national territory which comprises 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 Republic of France, the territory of the Republic of France, which, for the purpose of this Agreement includes the maritime area, hereafter defined as the economic zone and the continental shelf outwards the territorial sea over which it has in accordance with International Law sovereign rights and a jurisdiction with a view to prospecting, exploiting and preserving natural resources.

ARTICLE 2

Each Contracting Party shall admit and encourage in its territory, in accordance with its legislation and with the provisions of this Agreement, investments made by nationals or companies of the other Contracting Party.

ARTICLE 3

Either Contracting Party shall extend fair and equitable treatment in accordance with the principles of International Law to investments made by nationals and companies of the other Contracting Party in its territory, and shall ensure that the exercise of the right thus recognized shall not be hindered.

Any unfair restriction on the purchase or transport of raw materials and auxiliary materials, energy and fuels, as well as the means of production and operation of all types, any hindrance of the sale, or transport of products within the country and abroad, as well as any other measures that have a similar effect, shall be considered as de jure or de facto impediments to fair and equitable treatment.

Within the framework of their internal legislation, the Contracting Parties shall favourably examine requests for entry and authorization to reside, work and travel made by the nationals of one Contracting Party in relation to an investment made on the territory of the other Contracting Party.

ARTICLE 4

Each Contracting Party shall apply in its territory to the nationals and companies of the other Party, with respect to their investments which are made in accordance with the legislation of that Contracting Party and activities related to such investments, a treatment not less favourable than that granted to its nationals or companies, or the treatment granted to the nationals or companies of the most favoured nation, if the latter is more favourable. In this respect, nationals authorized to work on the territory of one Contracting Party shall enjoy the material facilities, relevant to the exercise of their professional activities.

The provisions of the preceding paragraph 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 which may be extended by the former Contracting Party by virtue of:

- a) any existing or future customs union, free trade area, common external tariff area, or regional economic organization of which either of the Contracting Parties is or may become a party, or
- b) any international agreement or any domestic legislation relating wholly or mainly to taxation.

ARTICLE 5

1. The investments made by nationals or companies of one Contracting Party shall enjoy full and complete protection and safety in the territory of the other Contracting Party.

2. Neither Contracting Party shall take any measures of expropriation or nationalization or any other measure having the effect of dispossession, direct or indirect, of nationals or companies of the other Contracting Party of their investments in its territory, except in the public interest and provided that these measures are not discriminatory or contrary to a particular obligation.

Any measure of dispossession which might be taken shall give rise to prompt and adequate compensation, the amount of which shall be calculated on the basis of the value of the investments concerned immediately before the intention of dispossession becomes of public knowledge.

The said compensation, the amounts and conditions of payments, shall be set not later than the date of dispossession. This compensation shall be effectively realizable, shall be paid without delay and shall be freely transferable.

3. Nationals or companies of one Contracting Party whose investments have sustained losses due to war or any other armed conflict, revolution, national state of emergency or revolt occurring in the territory of the other Contracting Party, shall enjoy treatment from the latter Contracting Party that is not less favourable than that granted to its own nationals or companies or to those of the most favoured nation.