

**AGREEMENT BETWEEN
THE TAIPEI ECONOMIC AND CULTURAL OFFICE
IN THE PHILIPPINES
AND THE MANILA ECONOMIC AND CULTURAL OFFICE
IN TAIWAN
FOR THE PROTECTION AND PROMOTION OF
INVESTMENTS**

PREAMBLE

The **Taipei Economic and Cultural Office** in the Philippines (TECO) and the **Manila Economic and Cultural Office** in Taiwan (MECO) (hereinafter referred to individually as a "Party" and collectively as the "Parties"),

DESIRING to intensify the economic cooperation of both Parties, consistent with the framework of the Parties' respective domestic laws, rules, and regulations, on the basis of equality and mutual benefits,

INTENDING to create favorable conditions for investments in the territories represented by each Party,

RECOGNIZING that the reciprocal encouragement, protection, and promotion of such investments will be conducive to stimulating business initiatives of the investors and will increase prosperity for both Parties,

HAVE AGREED AS FOLLOWS:

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Article 1
SCOPE

1. Each Party shall protect and promote, in accordance with the laws, rules, and regulations of the territory that such Party represents, investors of the territory represented by the other Party and their covered investments, through its relevant authorities. Each Party shall seek the necessary consensus and coordinate with its respective relevant authorities to fulfill the obligations under this Agreement.

2. This Agreement shall apply to measures adopted or maintained in the territory represented by a Party relating to:
 - (a) covered investments; and
 - (b) investors of the other Party.

3. This Agreement shall not apply to:
 - (a) any taxation measure, except for Article 7 (Expropriation and Compensation) and Article 9 (Transfers);
 - (b) government procurement;
 - (c) services supplied in the exercise of governmental function by the relevant authorities in the territory of a Party. For the purpose of this Agreement, a service supplied in the exercise of governmental function means any service, which is supplied neither on a commercial basis nor in competition with one or more service suppliers;

- (d) measures adopted or maintained in the territory represented by a Party affecting trade in services as defined under the General Agreement on Trade in Services (GATS) of the World Trade Organization (WTO).

Notwithstanding, Article 4 (Treatment of Investments), Article 7 (Expropriation and Compensation), Article 8 (Compensation for Losses), Article 9 (Transfers), Article 13 (Subrogation), and Article 14 (Settlement of Investment Disputes) shall apply to any measure affecting the supply of service by a service supplier of a Party through commercial presence in the territory represented by the other Party, but only to the extent that any such measure relates to a covered investment and an obligation under GATS, regardless of whether such a service sector is scheduled in a Party's schedule of specific commitments made under GATS of the WTO.

For greater certainty, this subparagraph shall not preclude a Party from applying Article 10 (Denial of Benefits), Article 11 (Measures to Safeguard the Balance of Payments), Article 12 (Prudential Measures), Article 16 (General Exceptions), Article 17 (Security Exceptions), Article 20 (Coordination Mechanism), Article 24 (Review), or other relevant provisions of this Agreement to any measure affecting the supply of service by a service supplier of a Party through commercial presence in the territory represented by the other Party covered by GATS, but only to the extent that any such measure relates to a covered investment and an obligation under this Agreement; and

- (e) claims arising out of events which occurred prior to the date of entry into force of this Agreement.
4. Article 3 (Non-Discriminatory Treatment) and Article 6 (Performance Requirements) do not apply to any measure adopted or maintained in the territory represented by a Party with respect to subsidies or grants.

For greater certainty, a decision by the relevant authorities in the territory represented by a Party not to issue, renew, or maintain a subsidy or grant shall not constitute a breach of Article 4 (Treatment of Investment) or Article 7 (Expropriation and Compensation),

- (a) in the absence of any specific commitment under a contract to issue, renew, or maintain that subsidy or grant, pursuant to a domestic law; or
- (b) if the decision is made in accordance with the terms or conditions attached to the issuance, renewal, or maintenance of the subsidy or grant, if any.
5. Nothing in this Agreement shall affect the rights and obligations of the relevant authorities of each Party under any tax agreement. In the event of any inconsistency between this Agreement and any such agreement, that agreement shall prevail to the extent of the inconsistency.

Article 2 DEFINITIONS

For the purpose of this Agreement, the term:

1. **“Covered investment”** means with respect to a Party, an investment, in its territory, of an investor of the other Party,

in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter, and which has been admitted by the Party, subject to its laws, rules, and regulations.

2. **“Juridical person”** means any legal entity duly constituted or otherwise organized under the applicable law in the territory represented by a Party, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, partnership, joint venture, sole proprietorship, association, or similar organization.

3. **“Investment”** means every kind of asset owned or controlled, directly or indirectly, by an investor of a Party in the territory of the other Party and that has the characteristics of an investment, such as the commitment of capital or other resources, the expectation of gains or profits, or the assumption of risk, and in particular, shall include but is not limited to:
 - (a) shares, stocks, and other forms of equity participation in a juridical person;

 - (b) bonds, debentures, other debt instruments, and loans^{1, 2};

 - (c) futures, options, and other derivatives;

¹ Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt, such as claims to payment that are immediately due and result from the sale of goods or services, are less likely to have such characteristics.

² Loan to juridical person:

- (i) where the juridical person is an affiliate of the investor, or
- (ii) where the original maturity of the loan is at least one year, but does not include a loan to a Party regardless of original maturity.

- (d) movable and immovable property and other property rights, such as mortgages, liens, and pledges, acquired in the expectation or used for the purpose of economic benefit or other business purposes;

For greater certainty, market share, market access, expected gains, and opportunities for profit-making are not, by themselves, investments.

- (e) intellectual property rights which are recognized pursuant to the laws, rules, and regulations of each Party;
- (f) turnkey, construction, management, production, revenue-sharing, and other similar contracts conferred by law or under a contract and having financial value, including any concession to search for, cultivate, extract, or exploit natural resources; and
- (g) claims to money or to any contractual performance related to a business and having financial value.

For greater certainty, "claims to money" does not include claims to money that arise solely from:

- (i) commercial contracts for sale of goods or services; or
- (ii) the extension of credit in connection with such commercial contracts.

For the purpose of the definition of investment in this Article, returns that are invested shall be treated as investment and any alteration of the form in which assets

are invested or reinvested shall not affect their character as investment.

The term "investment" does not include an order or judgment entered in a judicial or administrative action.

4. **"Investor of a Party"** means a natural or juridical person of a Party that has made an investment in the territory of the other Party.
5. **"Freely usable currency"** means any currency designated as such by the International Monetary Fund (IMF) under its Articles of Agreement and any amendments thereto.
6. **"Measure"** means any measure in the territory represented by a Party, whether in the form of a law, rule, regulation, procedure, administrative action, or other similar forms.
7. **"Natural person of a Party"** means any natural person possessing the nationality or citizenship of a Party in accordance with the laws, rules, and regulations in the territory represented by that Party.
8. **"Returns"** means amounts yielded by or derived from an investment, including profits, dividends, interest, capital gains, royalties, and all other lawful income.

Article 3 **NON-DISCRIMINATORY TREATMENT**

1. Investors of a Party and their covered investments shall be accorded treatment no less favorable than that accorded, in like circumstances, to the other Party's own

investors and their investments within its territory, with respect to the management, conduct, operation, maintenance, use, and sale or disposition of investments.

2. Investors of a Party and their covered investments shall be accorded treatment no less favorable than that accorded, in like circumstances, to investors of a non-Party and their investments with respect to the management, conduct, operation, maintenance, use, and sale or disposition of investments in its territory.
- (a) The treatment, as set forth in paragraph 2, shall not include any preferential treatment accorded to investors or their investments under any existing or future bilateral, regional, or international investment agreements³.
 - (b) Notwithstanding paragraph 2, if a Party accords more favorable treatment to investors of a non-Party or their investments by virtue of any future international investment agreement or arrangements or regional cooperation to which such Party is a party, it shall not be obliged to accord such treatment to investors of the other Party or their investments. However, upon request from the other Party, it shall accord adequate opportunity to negotiate the benefits granted therein.
 - (c) For greater certainty, the treatment under paragraph 2 does not encompass a requirement for a Party to extend to investors of the other Party dispute resolution procedures or mechanisms.

³ International investment agreements shall include investment chapters in free trade agreements or economic partnership agreements.

Article 4
TREATMENT OF INVESTMENTS

1. Each Party shall accord to the covered investments of investors of the other Party fair and equitable treatment and full protection and security.
2. For greater certainty:
 - (a) Fair and equitable treatment refers to the obligation of each Party not to:
 - (i) deny justice in any legal or administrative proceedings;
 - (ii) exercise un-remedied and egregious violations of due process;
 - (iii) exercise manifestly abusive or arbitrary treatment involving continuous, unjustified, and outrageous coercion or harassment; or
 - (iv) engage in targeted discrimination on manifestly unjustified grounds.
 - (b) Full protection and security requires each Party to provide the level of police protection reasonably necessary to ensure the physical security of covered investments required under customary international law.
 - (c) The concepts of fair and equitable treatment and full protection and security do not require treatment in addition to or beyond that which is required under customary international law and do not create additional substantive rights.

3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

Article 5 NON-CONFORMING MEASURES

Paragraph 1 of Article 3 (Non-Discriminatory Treatment) shall not apply to any non-conforming measures adopted or maintained in the territory represented by a Party. The Parties will endeavor to progressively remove the non-conforming measures.

For greater certainty, investments existing at or made after entry into force of this Agreement shall not be affected by an amendment to any existing non-conforming measure or any new non-conforming measure that a Party may adopt or maintain if such investments are provided under a specific written commitment of a Party.

Article 6 PERFORMANCE REQUIREMENTS

The provisions of the Agreement on Trade-Related Investment Measures (TRIMs) in Annex 1A of the WTO Agreement shall apply, *mutatis mutandis*, to this Agreement.

Article 7
EXPROPRIATION AND COMPENSATION⁴

1. Each Party shall not expropriate or nationalize a covered investment either directly or through measures equivalent to expropriation or nationalization (hereinafter referred to as "expropriation"), except:
 - (a) for a public purpose;
 - (b) on a non-discriminatory basis;
 - (c) in accordance with due process of law; and
 - (d) on payment of compensation.

2. The compensation referred to in paragraph 1, subparagraph (d) shall:
 - (a) be paid without delay⁵;
 - (b) be equivalent to the fair market value of the expropriated investment at the time when or immediately before the expropriation was publicly announced, the date of filing of the petition for expropriation, or when the expropriation occurred, whichever is applicable;
 - (c) not reflect any change in value because the intended expropriation had become known earlier; and

⁴ This Article (Expropriation and Compensation) shall be interpreted in accordance with Annex I (Expropriation and Compensation).

⁵ The Parties understand that there may be legal and administrative processes that need to be observed before payment can be made.

- (d) be effectively realizable and freely transferable between the territories of the Parties.
3. In the event of delay, the compensation referred to in paragraph 1, subparagraph (d) shall include an appropriate interest in accordance with the laws, rules, and regulations in the territory represented by the Party making the expropriation.
 4. Non-discriminatory regulatory actions by a Party that are designed and applied to achieve legitimate public welfare objectives, such as the protection of public health, safety, and the environment do not constitute expropriation.
 5. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to the revocation, limitation, or creation of intellectual property rights, to the extent that such issuance, revocation, limitation, or creation is consistent with the Trade-Related Aspects of Intellectual Property Rights Agreement.⁶

Article 8 COMPENSATION FOR LOSSES

Each Party shall accord to investors of the other Party whose covered investments suffered losses due to war or other armed conflict, state of national emergency, civil strife, or other similar events in its territory, treatment no less favorable than that accorded, in like circumstances, to its own investors or

⁶ For greater certainty, the Parties recognize that, for the purpose of this Article, the term "revocation" of intellectual property rights includes the cancellation or nullification of such rights, and the term "limitation" of intellectual property rights includes exceptions to such rights.

investors of a non-Party, relating to restitution, indemnification, compensation, or other forms of settlement.

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Article 9
TRANSFERS

1. Each Party shall allow all transfers relating to a covered investment to be made freely and without delay into and out of its territory. Such transfers include:
 - (a) contributions to capital, including the initial contribution;
 - (b) profits, capital gains, dividends, royalties, license fees, technical assistance and technical and management fees, interest, and other current income accruing from any covered investment;
 - (c) proceeds from the total or partial sale or liquidation of any covered investment;
 - (d) payments made under a contract, including a loan agreement;
 - (e) payments made pursuant to Article 7 (Expropriation and Compensation) and Article 8 (Compensation for Losses);
 - (f) payments arising out of the settlement of a dispute by any means, including adjudication, arbitration, or the agreement of the parties to the dispute; and
 - (g) earnings and other remuneration of personnel engaged from abroad in connection with that covered investment in its territory.

2. Each Party shall allow such transfers relating to a covered investment to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.
3. Notwithstanding paragraphs 1 and 2, each Party may prevent or delay a transfer through the equitable, non-discriminatory, and good faith application of its laws, rules, and regulations relating to:
 - (a) bankruptcy, insolvency, or the protection of the rights of creditors;
 - (b) issuing, trading, or dealing in securities, futures, options, or derivatives;
 - (c) criminal or penal offences and the recovery of the proceeds of crime;
 - (d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;
 - (e) ensuring compliance with orders or judgments in judicial or administrative proceedings;
 - (f) taxation;
 - (g) social security, public retirement, or compulsory savings schemes;
 - (h) severance entitlements of employees; and
 - (i) requirement to register and satisfy other formalities imposed by the central bank and financial regulatory authorities of a Party.

4. Nothing in this Agreement shall affect the rights and obligations of the territory represented by the Parties as members of the IMF under the Articles of Agreement of the IMF, including the use of exchange actions which are in conformity with the Articles of Agreement, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its specific commitments regarding such transactions, except under Article 11 (Measures to Safeguard the Balance of Payments) or at the request of the IMF.

Article 10
DENIAL OF BENEFITS

1. Each Party may deny the benefits of this Agreement to:
 - (a) investors of the other Party where the investment is being made by a juridical person that is owned or controlled by persons of a non-Party and that juridical person has no substantive business operations in the territory of the other Party; or
 - (b) investors of the other Party where the investment is being made by a juridical person that is owned or controlled by persons of the denying Party and that juridical person has no substantive business operations in the territory of the other Party.
2. A juridical person is:
 - (a) "owned" by an investor in accordance with the laws, rules, and regulations in the territory represented by each Party; or

- (b) "controlled" by an investor if the investor has the power to name a majority of its directors or otherwise to legally direct its actions.
3. In the case of the relevant authorities in the territory represented by MECO, it may deny the benefits of this Agreement to an investor of the other Party and to its investments, where it establishes that such investor has made an investment in breach of the provisions of Commonwealth Act No. 108 entitled "*An Act to Punish Acts of Evasion of Laws on the Nationalization of Certain Rights, Franchises or Privileges*", as amended by Presidential Decree No. 715, otherwise known as "*The Anti-Dummy Law*", as may be amended.

Article 11
MEASURES TO SAFEGUARD THE BALANCE OF
PAYMENTS

1. Each Party may adopt or maintain measures not conforming with its obligations under paragraph 1 of Article 3 (Non-Discriminatory Treatment) relating to cross-border capital transactions, and Article 9 (Transfers):
- (a) in the event of serious balance-of-payments and external financial difficulties or threat thereof; or
 - (b) in cases where, in exceptional circumstances, movements of capital cause or threaten to cause serious difficulties for macroeconomic management, in particular, monetary and exchange rate policies.
2. Measures referred to in paragraph 1 shall:

- (a) be consistent with the Articles of Agreement of the IMF;
- (b) avoid unnecessary damage to the commercial, economic, and financial interests of the other Party;
- (c) not exceed those necessary to deal with the circumstances described in paragraph 1;
- (d) be temporary and phased out progressively as the situation specified in paragraph 1 improves; and
- (e) be applied such that a Party is treated no less favorably than any non-Party.

Article 12
PRUDENTIAL MEASURES

1. Notwithstanding any other provisions in this Agreement, each Party shall not be prevented from taking measures relating to financial services for prudential reasons, including measures for the protection of investors, depositors, policy holders, or natural or juridical persons to whom a fiduciary duty is owed by an entity supplying financial services, or to ensure the integrity and stability of its financial and monetary system. Where such measures do not conform with the provisions of this Agreement, they shall not be used as a means of avoiding the Party's commitments or obligations under this Agreement.
2. Nothing in this Agreement shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

Article 13
SUBROGATION

1. If a Party or its designated agency makes a payment to an investor of that Party under a guarantee, contract of insurance, or other forms of indemnity it has granted on non-commercial risk in respect of a covered investment, the other Party shall recognize the subrogation or transfer of any right or claim in respect of such investment. The subrogated or transferred right or claim shall not be greater than the original right or claim of the investor.
2. Where a Party or any agency, institution, statutory body, or corporation designated by such Party has made a payment to an investor of that Party and has taken over rights and claims of the investor, that investor shall not, unless authorized to act on behalf of the Party making the payment, pursue those rights and claims against the other Party.

Article 14
SETTLEMENT OF INVESTMENT DISPUTES

Definitions and Scope

1. For the purpose of this Article, the term:
 - (a) **“Disputing investor”** means an investor of a Party that makes a claim against the other Party under this Article.
 - (b) **“Disputing Party”** means the relevant authorities of the territory represented by a Party against which a claim is made under this Article.

- (c) **“Disputing parties”** means the disputing investor and the disputing Party.
- (d) **“ICC Arbitration Rules”** means the Rules of Arbitration of the International Chamber of Commerce, in force as of 1 January 2012.
- (e) **“New York Convention”** means the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, on 10 June 1958.
- (f) **“UNCITRAL Arbitration Rules”** means the arbitration rules of the United Nations Commission on International Trade Law approved by the United Nations General Assembly on 15 December 1976.
2. This Article shall apply to investment disputes between the disputing parties arising from an alleged breach of an obligation under Article 3 (Non-Discriminatory Treatment), Article 4 (Treatment of Investment), Article 7 (Expropriation and Compensation), Article 8 (Compensation for Losses), and Article 9 (Transfers), which causes loss or damage to the disputing investor in relation to its covered investment with respect to the management, conduct, operation, maintenance, use, and sale or disposition of such investment.
3. This Article shall not apply where the disputing investor holds the nationality or citizenship of the disputing Party.

MOFA 314 Consultations

4. In the event of an investment dispute referred to in paragraph 2, the disputing parties shall, as far as possible, resolve the dispute through consultations, with a view

towards reaching an amicable settlement. Such consultations, which may include the use of non-binding, third party procedures, shall be initiated by a written request for consultations delivered by the disputing investor to the disputing Party.

5. With the objective of resolving an investment dispute through consultations, a disputing investor shall provide the disputing Party, prior to the commencement of the consultations, with information regarding the legal and factual basis for the dispute.

Choice of Forum

6. Where the investment dispute has not been resolved through consultations within 180 days from receipt by the disputing Party of the written request for consultations, unless the disputing parties agree otherwise, it may be submitted at the choice of the disputing investor to:
 - (a) the courts or administrative tribunals of the disputing Party;
 - (b) arbitration under the UNCITRAL Arbitration Rules;
 - (c) arbitration under the ICC Arbitration Rules; or
 - (d) any arbitral institution or in accordance with other arbitral rules, that the disputing parties may agree,

provided that resort to any of the fora under subparagraph (a), (b), (c), or (d) shall exclude resort to the other.

Conditions and Limitations on Submission of Claim

7. The submission of a dispute to arbitration under paragraph 6, subparagraph (b), (c), or (d) shall be conditional upon:
- (a) the submission of the dispute to such arbitration taking place within three years from the time the disputing investor became aware, or should reasonably have become aware of an alleged breach of an obligation under this Agreement causing loss or damage to the disputing investor in relation to its covered investment;
 - (b) the execution of a separate written agreement⁷, apart from this Agreement, between the disputing parties;
 - (c) the disputing investor providing to the disputing Party a written notice of intent at least 90 days before the claim is submitted. The notice of intent shall specify:
 - (i) the forum for dispute settlement being sought, under paragraph 6, subparagraph (b), (c), or (d);
 - (ii) the name and address of the disputing investor and its legal representative;
 - (iii) the factual and legal basis of the investment dispute sufficient to present the problem clearly, including the provisions of this Agreement alleged to have been breached

⁷ This shall be read in conjunction with Annex II (Separate Written Agreement).

and the relevant measure at issue, as may be applicable; and

(iv) the relief sought, and where appropriate, the approximate amount of damages claimed; and

(d) the notice of arbitration being accompanied by the disputing investor's written waiver of any right to initiate or continue before any administrative tribunal or court under the law of either the disputing Party or the Party of the disputing investor, or other dispute settlement mechanisms including investment dispute settlement mechanisms under any other bilateral or multilateral agreement to which either or both the disputing Party and the Party of the disputing investor are parties, and any proceedings with respect to any measure of the disputing Party alleged to constitute a breach referred to in paragraph 2. Accordingly, once the disputing investor has submitted the claim to arbitration under paragraph 6, subparagraph (b), (c), or (d), the choice of forum shall be final.

8. The applicable arbitration rules shall govern the arbitration referred to in this Article except to the extent modified by the disputing parties in this Article.

Selection of Arbitrators

9. Unless the disputing parties agree otherwise, an arbitral tribunal established under paragraph 6, subparagraph (b), (c), or (d) shall comprise three arbitrators:

(a) one arbitrator appointed by each of the disputing parties; and

- (b) the third arbitrator, who shall be the presiding arbitrator, appointed by agreement of the disputing parties.
10. Unless the disputing parties agree otherwise, the third arbitrator shall:
- (a) not be of the same nationality as the disputing investor, or be a national of the disputing Party;
 - (b) not have his or her usual place of residence in the territory of either the disputing Party or the Party of the disputing investor;
 - (c) not be employed by or affiliated with the disputing Party, the Party of the disputing investor, or the disputing investor;
 - (d) not have dealt with the said investment dispute in any capacity; and
 - (e) have expertise or experience in public international law, international trade, or international investment rules.

Conduct of Arbitration

11. Where issues relating to jurisdiction or admissibility are raised as preliminary objections, the arbitral tribunal shall decide the matter before proceeding to the merits.
12. A disputing Party may file, no later than 90 days after the constitution of the arbitral tribunal, an objection that a claim is manifestly without merit or not admissible. A disputing Party may also file an objection that a claim is outside the jurisdiction or competence of the arbitral

tribunal. The disputing Party shall specify as precisely as possible the basis for the objection.

13. Notwithstanding paragraph 11, at any stage of the proceedings, the arbitral tribunal may consider, *motu proprio*, whether the claim is admissible, or within the jurisdiction or competence of the arbitral tribunal.
14. The arbitral tribunal shall address any such objection as a preliminary question apart from the merits of the claim. The disputing parties shall be given a reasonable opportunity to present their views and observations to the arbitral tribunal. If the arbitral tribunal decides that the claim is manifestly without merit, or is otherwise not within its jurisdiction or competence, it shall render an award to that effect.
15. Unless the disputing parties agree otherwise, the arbitral tribunal shall determine the place of arbitration in accordance with the applicable arbitration rules, provided that the place shall be in the territory of either Party or a State that is a party to the New York Convention.

Awards

16. Where an arbitral tribunal makes a final award against either of the disputing parties, the arbitral tribunal may award, separately or in combination, only:
 - (a) monetary damages and any applicable interest; and
 - (b) restitution of property, in which case the award shall provide that the disputing Party may pay monetary damages and any applicable interest in lieu of restitution.

17. An arbitral tribunal may not award moral and punitive damages.
18. Each Party shall provide for the enforcement of an award in its territory.⁸
19. An award made by an arbitral tribunal shall be final and binding upon the disputing parties. An award shall have no binding force except between the disputing parties and in respect of the particular case.

Governing Law

20. The arbitral tribunal shall decide the issues in dispute in accordance with this Agreement, the applicable rules of international law, and any relevant domestic law in the territory represented by the disputing Party.

Article 15

DISPUTE SETTLEMENT BETWEEN THE PARTIES

Any dispute between the Parties concerning the interpretation or application of this Agreement shall, if possible, be settled amicably through consultations and negotiations between the Parties.

Article 16

GENERAL EXCEPTIONS

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties or their

⁸ The Parties understand that there may be domestic legal and administrative processes that need to be observed before an award can be complied with.

investors, where like conditions prevail, or a disguised restriction on investors or investments made by investors of the other Party, nothing in this Agreement shall be construed to prevent the adoption or enforcement by a Party of measures:

- (a) necessary to protect public morals or to maintain public order, provided that the public order exception may only be invoked where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society;
- (b) necessary to protect human, animal, or plant life or health;
- (c) necessary to secure compliance with laws, rules, and regulations which are not inconsistent with the provisions of this Agreement, including those relating to:
 - (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;
 - (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data, and the protection of confidentiality of individual records and accounts; or
 - (iii) safety;
- (d) imposed for the protection of national treasures of artistic, historic, or archaeological value; or
- (e) relating to the conservation of exhaustible natural resources, if such measures are made effective in

conjunction with restrictions on domestic production or consumption.

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Article 17
SECURITY EXCEPTIONS

For the purpose of this Agreement, nothing in this Agreement shall be construed:

- (a) to require a Party to furnish any information, the disclosure of which it considers contrary to the essential security interests of the territory it represents;
- (b) to prevent a Party from taking any actions which the relevant authorities of the territory it represents considers necessary for the protection of its essential security interests:
 - (i) relating to the traffic in arms, ammunition, and implements of war and to such traffic in other goods and materials or relating to the supply of services as carried on, directly or indirectly, for the purpose of supplying or provisioning a military establishment;
 - (ii) taken in time of war or other emergency in domestic or international relations;
 - (iii) relating to fissionable and fusionable materials or the materials from which they are derived;
or
 - (iv) taken to protect critical public infrastructures, including communication, power, and water

infrastructures, from deliberate attempts intended to disable or degrade such infrastructures; or

- (c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Article 18 DISCLOSURE OF INFORMATION

1. The laws, rules, regulations, administrative procedures and rulings, and judicial decisions of general application in the territory of each Party shall be promptly published, or otherwise made publicly available.
2. Each Party shall, upon request by the other Party, promptly respond to specific questions and provide information on matters set forth in paragraph 1.
3. Nothing in this Agreement shall be construed to require the relevant authorities of each Party to furnish or allow access to information, the disclosure of which they consider would:
 - (a) be contrary to the public interest as determined by its law;
 - (b) be contrary to any of its legislation, including those protecting personal privacy or the financial affairs and accounts of individual customers of financial institutions;
 - (c) impede law enforcement; or

- (d) prejudice legitimate commercial interests of particular enterprises, public or private.

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Article 19
JOINT IMPLEMENTING BODY

1. Both Parties shall establish a Joint Implementing Body with a view to accomplishing the objectives of this Agreement. The functions of the Joint Implementing Body include facilitating the implementation and operation of this Agreement and addressing issues of potential concerns by investors under this Agreement.
2. The Joint Implementing Body shall be composed of representatives of each Party, and shall meet within one year of the entry into force of this Agreement and at least annually thereafter or as mutually determined by the Parties.

Article 20
COORDINATION MECHANISM

1. Upon the entry into force of this Agreement, the Joint Implementing Body referred to in Article 19 (Joint Implementing Body) shall set up the Coordination Mechanism by designating representatives from the relevant authorities of each Party to provide assistance in the resolution of any incidents or activities relating to investors and their investments.
2. In the event of any such incidents or activities referred to in paragraph 1, upon request from the investor to either Party, the Joint Implementing Body shall task the Coordination Mechanism to meet, in an appropriate

manner, within 30 days of such request for the purpose of addressing such incidents or activities.

MOFA 314
Article 21
PROMOTION OF INVESTMENT

1. Each Party shall further cooperate in promoting and increasing investment activities by building upon existing agreements or arrangements already in place for economic cooperation in order to strengthen the economic relationship between the Parties.
2. For the mutual benefit of the Parties, each Party shall encourage and create favorable conditions for investors and their investments.
3. The Parties shall cooperate in promoting and increasing awareness of the Parties as an investment territory, through, among others:
 - (a) increasing investments between the Parties;
 - (b) organizing investment promotion activities, including business matching events;
 - (c) enhancing industrial complementation and production networks;
 - (d) organizing and supporting the organization of various briefings and seminars on investment opportunities and on investment laws, rules, regulations, and policies; and
 - (e) conducting information exchanges on other issues of mutual concern relating to investment promotion

and facilitation.

Article 22
FACILITATION OF INVESTMENT

1. Each Party should endeavor to further create stable, favorable, and transparent conditions in order to encourage greater investment by investors of the other Party in its territory.
2. Subject to the laws, rules, and regulations in the respective territories represented by the Parties, the Parties shall cooperate to facilitate investments between the Parties through, among others:
 - (a) creating the necessary environment for all forms of investment;
 - (b) simplifying procedures for investment applications and approvals;
 - (c) promoting dissemination of investment information, including investment laws, rules, regulations, policies, and procedures; and
 - (d) utilizing existing investment promotion agencies or, where necessary, establishing one-stop investment centers or similar mechanisms in the respective host Parties, to provide assistance and advisory services to the business sectors including facilitation of operating licenses and permits.

Article 23
ENTRY INTO FORCE

1. This Agreement shall enter into force on the thirtieth day after the date on which the Parties have received the notification, in writing, that their respective legal procedures necessary for entry into force of this Agreement have been completed. This Agreement shall remain in force unless terminated as provided for in Article 25 (Termination).
2. Upon the entry into force, this Agreement shall replace the Agreement between the Taipei Economic and Cultural Office and the Manila Economic and Cultural Office for the Promotion and Protection of Investments signed on 28 February 1992, and apply to measures adopted or maintained by the relevant authorities of the Parties relating to the existing investment.

Article 24
REVIEW

1. The Parties shall undertake general review of this Agreement with a view of furthering its objectives, including fair and equitable treatment elements, after three years from entry into force of this Agreement, upon request from a Party.
2. The outcome of the general review shall be incorporated in accordance with the domestic processes of the relevant authorities of the Parties.

**Article 25
TERMINATION**

1. Each Party may terminate this Agreement by giving written notification to the other Party, and such termination shall become effective one year after it has been received by the other Party.
2. In respect of investments made prior to the date of termination of this Agreement, the provisions of this Agreement shall remain in force for a further period of 10 years from that date.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

Done in duplicate in Manila, Philippines on 7 December 2017 in the English language.

For the Taipei Economic and
Cultural Office in the Philippines

For the Manila Economic and
Cultural Office in Taiwan

DR. SONG-HUANN LIN
Representative

MR. ANGELITO TAN BANAYO
Chairman and Resident
Representative

Witnessed by:

Witnessed by:

Ms. Mei-Hua Wang
Vice Minister

Dr. Ceferino S. Rodolfo
Undersecretary

Annex I

EXPROPRIATION AND COMPENSATION

1. An action or a series of related actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or property interest in a covered investment.
2. Article 7 (Expropriation and Compensation) addresses two situations:
 - (a) the first situation is direct expropriation, where a covered investment is nationalized or otherwise directly expropriated through formal transfer of title or outright seizure; and
 - (b) the second situation is where an action or a series of related actions by a Party that has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.
3. The determination of whether an action or series of related actions by a Party, in a specific fact situation, constitutes an expropriation of the type referred to in paragraph 2, subparagraph (b) requires a case-by-case, fact-based inquiry that considers, among other factors:
 - (a) the economic impact of the action, although the fact that such action or series of related actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that such an expropriation has occurred;
 - (b) whether the action breaches the Party's prior binding written commitment to the investor, whether by contract, license, or other legal documents; and

- (c) the character of the action, including its objective and whether such action is disproportionate to the public purpose.

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Annex II
SEPARATE WRITTEN AGREEMENT

The procedural requirements for the issuance of the separate written agreement are as follows:

- (a) The disputing investor shall submit to the disputing Party a written notice of intent to conciliate, arbitrate, or request for consultations with an undertaking to meet in good faith with the disputing Party to reach an amicable settlement.
- (b) Upon termination of the consultation process within the period specified in Article 14 (Settlement of Investment Disputes) and in the event the disputing parties have not reached an amicable settlement, the disputing parties shall jointly execute a separate written agreement that recites in detail, *inter alia*, the issues which will be raised to the arbitral tribunal, admissions and stipulation of facts, the general nature of the claim, an indication of the amount involved, if any, the relief or remedy sought, and such other matters as may aid in the prompt disposition of the claim or dispute.
- (c) The separate written agreement shall not be deemed a waiver by the disputing Party of its right to object or challenge any issue that may be raised at any stage of the proceedings.