

# 1996 PROTOCOL TO AMEND THE AGREEMENT AMONG THE GOVERNMENT 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

*Adopted in Jakarta, Indonesia on 12 September 1996*

The Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Vietnam;

**REFERRING** to Article XII of 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 signed on 15 December 1987 in Manila, hereinafter referred to as "the Agreement";

**RECALLING** the Framework Agreement on Enhancing ASEAN Economic Cooperation signed in Singapore on 28 January 1992 which acknowledged the importance of sustaining economic growth and development in all Member States through joint efforts in liberalising trade and promoting intra-ASEAN trade and investment flows;

**MINDFUL** of the agreement to establish an ASEAN Free Trade Area (AFTA) with the aim to encourage greater investment flows into the region;

**BEARING IN MIND** the decision of the Fifth ASEAN Summit held on 15 December 1995 and the subsequent work within ASEAN to establish an ASEAN Investment Area (AIA) in order to enhance the area's attractiveness and competitiveness for promoting direct investment, as well as to implement, among other investment measures, an ASEAN Plan of Action on Cooperation and Promotion of Foreign Direct Investment and Intra-ASEAN Investment;

**NOTING** that the Government of the Socialist Republic of Vietnam had become a member of ASEAN on 28 July 1995 and had agreed to subscribe or accede, as the case may be, to all Declarations, Treaties and Agreements in ASEAN, and that the Socialist Republic of Vietnam had, on 16 August 1996, acceded to the Agreement by depositing its instrument of accession with the Secretary-General of ASEAN and thereby became a party to the Agreement;

**RECOGNISING** the need to update the Agreement to reflect the rapid development in the global investment environment and the commitment which Member Countries had offered under the various international and regional investment agreements; and

**ACKNOWLEDGING** the importance of investment as a source of finance for sustaining the pace of economic, industrial and technological development of the region;

**HAVE AGREED AS FOLLOWS:**

## **ARTICLE 1**

The title of the Agreement shall be amended to read as "The ASEAN Agreement for the Promotion and Protection of Investments."

## **ARTICLE 2**

The following shall be inserted after Article III as a new Article III-A to the Agreement:

"Simplification of Investment Procedures and Approval Process

Each Contracting Party shall endeavour to simplify and streamline its investment procedures and approval process to facilitate investment flows."

## **ARTICLE 3**

The following shall be inserted after the new Article III-A as a new Article III-B to the Agreement:

"Transparency and Predictability

Each Contracting Party shall ensure the provision of up-to-date information on all laws and regulations pertaining to foreign investment in its territory and shall take appropriate measures to ensure that such information be made as transparent, timely and publicly accessible as possible."

## **ARTICLE 4**

Article IX of the Agreement shall be substituted with the following:

"Dispute Between the Contracting Parties

The provisions of the ASEAN Dispute Settlement Mechanism shall apply to the settlement of disputes under the agreement."

## **ARTICLE 5**

Article X of the Agreement shall be renamed as "Dispute Between Contracting Parties and Investors of Other Contracting Parties."

## **ARTICLE 6**

The following shall be inserted after Article XI as a new Article XI-A to the Agreement:

"Accession of New Members

New Members of ASEAN shall accede to the Agreement by depositing their instruments of accession with the Secretary-General of ASEAN.

For new Members of ASEAN who accede to the Agreement, it shall enter into force on the date of the deposit of the instrument of accession."

## ARTICLE 7

This Protocol shall enter into force on the date of deposit of the instruments of ratification or acceptance by all signatory governments with the Secretary-General of ASEAN.

This Protocol shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each Member Country.

**IN WITNESS THEREOF**, the undersigned, being duly authorised thereto by their respective Governments, have signed the Protocol to Amend 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** at Jakarta, this 12th day of September 1996 in a single copy in the English Language.

For the Government of Brunei Darussalam: **ABDUL RAHMAN TAIB**, Minister of Industry and Primary Resources

For the Government of the Republic of Indonesia: **HARTARTO SASTROSOENARTO**, Coordinating Minister for Production and Distribution

For the Government of Malaysia: **RAFIDAH AZIZ**, Minister of International Trade and Industry

For the Government of the Republic of the Philippines: **CESAR B. BAUTISTA**, Secretary of Trade and Industry

For the Government of the Republic of Singapore: **YEO CHEOW TONG**, Minister of Trade and Industry

For the Government of the Kingdom of Thailand: **AMNUAY VIRAVAN**, Deputy Prime Minister and Minister of Foreign Affairs

For the Government of the Socialist Republic of Viet Nam: **LE VAN TRIET**, Minister of Trade