

## Examples for asset-based treaty definitions of investment

### **Chile-Hong Kong, China SAR BIT (2016)**

Art. 1: “investment” means every asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:

(e) turnkey, construction, management, production, concession, revenue-sharing and other similar contracts;

### **Austria-Kyrgyzstan BIT (2016)**

Art. 1(2): “investment by an investor of a Contracting Party” means every kind of asset in the territory of one Contracting Party, owned or controlled, directly or indirectly, by an investor of the other Contracting Party. Investments are understood to have specific characteristics such as the commitment of capital or other resources, or the expectation of gain or profit, or the assumption of risk, and include:

(d) “any right or claim to money or performance whether conferred by law or contract, including turnkey, construction, management or revenue-sharing contracts, and concessions, licenses, authorizations or permits to undertake an economic activity”

## Examples for enterprise-based treaty definitions of investment

### **Canada-Guinea BIT (2015)**

#### Article 1: Definitions

“Investment means: an enterprise; a share, stock or other form of equity participation in an enterprise; a bond, debenture or other debt instrument of an enterprise; a loan to an enterprise;

notwithstanding subparagraphs (c) and (d) above, a loan to or debt security issued by a financial institution is an investment only where the loan or debt security is treated as regulatory capital by the Party in whose territory the financial institution is located;

an interest in an enterprise that entitles the owner to share in income or profits of the enterprise;

an interest in an enterprise that entitles the owner to share in the assets of that enterprise on dissolution;

an interest arising from the commitment of capital or other resources in the territory of a Party to economic activity in that territory, such as under:

a contract involving the presence of an investor's property in the territory of the Party, including a turnkey or construction contract, or a concession, or

a contract where remuneration depends substantially on the production, revenues or profits of an enterprise;

any other tangible or intangible, moveable or immovable, property and related property rights acquired in the expectation of or used for economic benefit or other business purpose;

### **Austria-Kyrgyzstan BIT (2016)**

#### Article 1 Definitions

(2) "investment by an investor of a Contracting Party" means every kind of asset in the territory of one Contracting Party, owned or controlled, directly or indirectly, by an investor of the other Contracting Party. Investments are understood to have specific characteristics such as the commitment of capital or other resources, or the expectation of gain or profit, or the assumption of risk, and include:

(a) an enterprise as defined in paragraph (3);

(b) shares, stocks and other forms of equity participation in an enterprise as referred to in subparagraph (a), and rights derived there from;

(c) bonds, debentures, loans and other forms of debt instruments and rights derived there from;

(d) any right or claim to money or performance whether conferred by law or contract, including turnkey, construction, management or revenue-sharing contracts, and concessions, licenses, authorizations or permits to undertake an economic activity;

(e) intellectual property rights and intangible assets having an economic value, including industrial property rights, copyrights, trademarks, trade dresses, patents, geographical indications, industrial designs and technical processes, trade secrets, trade names, know-how and goodwill;

(f) any other tangible or intangible, movable or immovable property, or any related property rights, such as leases, mortgages, liens, pledges or usufructs.