

No. 48375

**Japan
and
Republic of Korea**

Agreement between the Government of Japan and the Government of the Republic of Korea for the liberalisation, promotion and protection of investment (with annexes and agreed minutes). Seoul, 22 March 2002

Entry into force: *1 January 2003 by notification, in accordance with article 23*

Authentic texts: *English, Japanese and Korean*

Registration with the Secretariat of the United Nations: *Japan, 3 March 2011*

**Japon
et
République de Corée**

Accord entre le Gouvernement du Japon et le Gouvernement de la République de Corée pour la libéralisation, la promotion et la protection des investissements (avec annexes et procès-verbal approuvé). Séoul, 22 mars 2002

Entrée en vigueur : *1^{er} janvier 2003 par notification, conformément à l'article 23*

Textes authentiques : *anglais, japonais et coréen*

Enregistrement auprès du Secrétariat des Nations Unies : *Japon, 3 mars 2011*

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN
THE GOVERNMENT OF JAPAN
AND THE GOVERNMENT OF THE REPUBLIC OF KOREA
FOR THE LIBERALISATION, PROMOTION
AND PROTECTION OF INVESTMENT

The Government of Japan and the Government of the Republic of Korea,

Desiring to further promote investment in order to strengthen the economic relationship between the two countries;

Intending to further create favourable conditions for greater investment by investors of one country in the territory of the other country;

Recognising the growing importance of the progressive liberalisation of investment for stimulating private initiative and for promoting prosperity in both countries;

Recognising that these objectives can be achieved without relaxing health, safety and environmental measures of general application;

Recognising the importance of the cooperative relationship between labour and management in promoting investment between both countries;

Bearing in mind their respective rights and obligations under the Marrakesh Agreement Establishing the World Trade Organization signed on the 15th day of April, 1994 and other multilateral instruments of cooperation;

Wishing that this Agreement will contribute to the strengthening of international cooperation with respect to the development of international rules on foreign investment; and

Believing that this Agreement marks the beginning of new economic partnership between the two countries in the twenty-first century;

Have agreed as follows:

Article 1

For the purposes of this Agreement,

(1) The term "investor" means with respect to a Contracting Party:

(a) a natural person having the nationality of that Contracting Party in accordance with its applicable laws and regulations; or

(b) a legal person or any other entity constituted or organised under the applicable laws and regulations of that Contracting Party, whether or not for profit, and whether private or government-owned or-controlled, and includes a company, corporation, trust, partnership, sole proprietorship, joint venture, association or organisation.

(2) The term "investment" means every kind of asset owned or controlled, directly or indirectly, by an investor, including:

(a) an enterprise (being a legal person or any other entity constituted or organised under the applicable laws and regulations of a Contracting Party, whether or not for profit, and whether private or government-owned or-controlled, and includes a company, corporation, trust, partnership, sole proprietorship, branch, joint venture, association or organisation);

(b) shares, stocks or other forms of equity participation in an enterprise, including rights derived therefrom;

(c) bonds, debentures, loans and other forms of debt, including rights derived therefrom;

(d) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;

(e) claims to money and to any performance under contract having a financial value;

(f) intellectual property rights, including trademarks, industrial designs, layout-designs of integrated circuits, copyrights, patents, trade names, indications of source or appellations of origin, and undisclosed information;

(g) concession rights including those for the exploration and exploitation of natural resources; and

(h) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges.

Investments include the amounts yielded by an investment, in particular, profit, interest, capital gains, dividends, royalties and fees. A change in the form in which assets are invested does not affect their character as investments.

(3) The term "UNCITRAL Arbitration Rules" means the arbitration rules of the United Nations Commission on International Trade Law, adopted by the United Nations Commission on International Trade Law on April 28, 1976.

(4) The term "ICSID Convention" means the Convention on the Settlement of Investment Disputes between States and Nationals of Other States opened for signature in Washington, on March 18, 1965.

(5) The term "Centre" means the International Centre for Settlement of Investment Disputes established by the ICSID Convention.

(6) The term "territory" means with respect to a Contracting Party the territory under its sovereignty.

(7) The term "Contracting Party" means Japan or the Republic of Korea, as the context requires.

Article 2

1. Each Contracting Party shall in its territory accord to investors of the other Contracting Party and to their investments treatment no less favourable than the treatment it accords in like circumstances to its own investors and their investments (hereinafter referred to as "national treatment") with respect to the establishment, acquisition, expansion, operation, management, maintenance, use, enjoyment, and sale or other disposal of investments (hereinafter referred to as "investment and business activities").

2. Each Contracting Party shall in its territory accord to investors of the other Contracting Party and to their investments treatment no less favourable than the treatment it accords in like circumstances to investors of any third country and to their investments (hereinafter referred to as "most-favoured-nation treatment") with respect to investment and business activities.

Article 3

Each Contracting Party shall in its territory accord to investors of the other Contracting Party treatment no less favourable than the treatment which it accords in like circumstances to its own investors or investors of any third country with respect to access to the courts of justice and administrative tribunals and agencies in all degrees of jurisdiction, both in pursuit and in defense of such investors' rights.

Article 4

1. Notwithstanding the provisions of Article 2, paragraph 3 of Article 8, or Article 9, each Contracting Party may adopt or maintain any measure not conforming with the obligations imposed by Article 2, paragraph 3 of Article 8, or Article 9 (hereinafter referred to as an "exceptional measure") in the sectors or with respect to the matters specified in Annex I to this Agreement.

2. Each Contracting Party shall, on the date on which this Agreement comes into force, notify the other Contracting Party of all existing exceptional measures in the sectors or with respect to the matters specified in Annex I. Such notification shall include information on the following elements of each measure: (a) sector and sub-sector or matter; (b) obligation or article in respect of which the measure is taken; (c) legal source or authority of the measure; (d) succinct description of the measure; and (e) motivation or purpose of the measure.

3. In cases where a Contracting Party adopts any new exceptional measure in the sectors or with respect to the matters specified in Annex I after the entry into force of this Agreement, such Contracting Party shall, prior to the entry into force of the measure or, in exceptional circumstances, as soon thereafter as possible:

(a) notify the other Contracting Party of the elements of the measure as set out in paragraph 2 of this Article; and