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**Japan
and
Myanmar**

Agreement between the Government of Japan and the Government of the Republic of the Union of Myanmar for the liberalisation, promotion and protection of investment (with annexes). Tokyo, 15 December 2013

Entry into force: *7 August 2014, in accordance with article 28*

Authentic text: *English*

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**Japon
et
Myanmar**

Accord entre le Gouvernement du Japon et le Gouvernement de la République de l'Union du Myanmar relatif à la libéralisation, la promotion et la protection des investissements (avec annexes). Tokyo, 15 décembre 2013

Entrée en vigueur : *7 août 2014, conformément à l'article 28*

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[ENGLISH TEXT – TEXTE ANGLAIS]

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

Japan and the Republic of the Union of Myanmar
(hereinafter referred to as "the Contracting Parties"),

Desiring to further promote investment in order to
strengthen the economic relationship between the
Contracting Parties;

Intending to further create stable, equitable,
favourable and transparent conditions for greater
investment by investors of one Contracting Party in the
Area of the other Contracting Party;

Recognising the growing importance of the progressive
liberalisation of investment for stimulating initiative of
investors and for promoting prosperity in both Contracting
Parties;

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

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

Have agreed as follows:

Article 1
Definitions

For the purposes of this Agreement:

- (a) the term "investment" means every kind of asset
owned or controlled, directly or indirectly, by
an investor, including:
 - (i) an enterprise and a branch of an enterprise;
 - (ii) shares, stocks or other forms of equity
participation in an enterprise, including
rights derived therefrom;

- (iii) bonds, debentures, loans and other forms of debt, including rights derived therefrom;
- (iv) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;
- (v) claims to money and to any performance under contract having a financial value;
- (vi) intellectual property rights, including copyrights and related rights, patent rights and rights relating to utility models, trademarks, industrial designs, layout-designs of integrated circuits, new varieties of plants, trade names, indications of source or geographical indications and undisclosed information;
- (vii) rights conferred pursuant to laws and regulations or contracts such as concessions, licences, authorisations, and permits, including those for the exploration and exploitation of natural resources; and
- (viii) 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 investments, 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 investment.

- (b) the term "investor of a Contracting Party" means:
 - (i) a natural person having the nationality of that Contracting Party in accordance with its applicable laws and regulations; or
 - (ii) an enterprise of that Contracting Party, that seeks to make, is making or has made investments in the Area of the other Contracting Party;

Note: It is understood that an investor of a Contracting Party seeks to make investments in the Area of the other Contracting Party only when the investor has taken concrete steps necessary to make investments, such as when the investor has made an application for a permit or licence which authorises the establishment of investments.

- (c) the term "enterprise of a Contracting Party" means any legal person or any other entity duly 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, including any corporation, trust, partnership, sole proprietorship, joint venture, association, organisation or company;
- (d) the term "investment activities" means establishment, acquisition, expansion, operation, management, maintenance, use, enjoyment and sale or other disposal of investments;
- (e) the term "Area" means with respect to a Contracting Party: (i) the territory of that Contracting Party; and (ii) the exclusive economic zone and the continental shelf with respect to which that Contracting Party exercises sovereign rights or jurisdiction in accordance with international law;
- (f) the term "existing" means being in effect on the date of entry into force of this Agreement;
- (g) the term "freely usable currency" means freely usable currency as defined under the Articles of Agreement of the International Monetary Fund; and
- (h) the term "the WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, April 15, 1994.

Article 2 National Treatment

1. Each Contracting Party shall in its Area 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 to their investments with respect to investment activities.

2. Paragraph 1 shall not be construed to prevent a Contracting Party from adopting or maintaining a measure that prescribes special formalities in connection with investment activities of investors of the other Contracting Party in its Area, provided that such special formalities do not impair the substance of the rights of such investors under this Agreement.

Article 3
Most-Favoured-Nation Treatment

Each Contracting Party shall in its Area 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 a non-Contracting Party and to their investments with respect to investment activities.

Article 4
Treatment of Investment

1. Each Contracting Party shall in its Area accord to investments of investors of the other Contracting Party treatment in accordance with international law, including fair and equitable treatment and full protection and security.
2. Each Contracting Party shall observe any obligation it may have entered into with regard to investments and investment activities of investors of the other Contracting Party.

Article 5
Access to the Courts of Justice

Each Contracting Party shall in its Area 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 a non-Contracting Party with respect to access to the courts of justice and administrative tribunals and agencies in all degrees of jurisdiction, both in pursuit and in defence of such investors' rights.

Article 6
Prohibition of Performance Requirements

1. Neither Contracting Party may impose or enforce any of the following requirements, or enforce any commitment or undertaking, in connection with investment activities of an investor of a Contracting Party or of a non-Contracting Party in its Area: