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**Japan, China
and
Republic of Korea**

Agreement among the Government of Japan, the Government of the People's Republic of China and the Government of the Republic of Korea for the promotion, facilitation and protection of investment (with protocol). Beijing, 13 May 2012

Entry into force: *17 May 2014, in accordance with article 27*

Authentic text: *English*

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**Japon, Chine
et
République de Corée**

Accord entre le Gouvernement du Japon, le Gouvernement de la République populaire de Chine et le Gouvernement de la République de Corée pour la promotion, la facilitation et la protection des investissements (avec protocole). Beijing, 13 mai 2012

Entrée en vigueur : *17 mai 2014, conformément à l'article 27*

Texte authentique : *anglais*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT AMONG THE GOVERNMENT OF JAPAN,
THE GOVERNMENT OF THE REPUBLIC OF KOREA
AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
FOR THE PROMOTION, FACILITATION
AND PROTECTION OF INVESTMENT

The Government of Japan, the Government of the
Republic of Korea and the Government of the People's
Republic of China,

Desiring to further promote investment in order to
strengthen the economic relationship among Japan, the
Republic of Korea and the People's Republic of China
(hereinafter referred to in this Agreement as "the
Contracting Parties");

Intending to create stable, favorable and transparent
conditions for investment by investors of one Contracting
Party in the territory of the other Contracting Parties;

Recognizing that the reciprocal promotion,
facilitation and protection of such investment and the
progressive liberalization of investment will be conducive
to stimulating business initiative of the investors and
increase prosperity among the Contracting Parties;

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

Recognizing the importance of investors' complying
with the laws and regulations of a Contracting Party in the
territory of which the investors are engaged in investment
activities, which contribute to the economic, social and
environmental progress; and

Bearing in mind their respective rights and
obligations under the WTO Agreement and other multilateral
instruments of cooperation;

Have agreed as follows:

Article 1
Definitions

For the purposes of this Agreement:

(1) the term "investments" means every kind of asset that an investor owns or controls, directly or indirectly, which has the characteristics of an investment, such as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that investments may take include:

- (a) an enterprise and a branch of an enterprise;
- (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 claims to any performance under contract having a financial value associated with investment;
- (f) 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;
- (g) rights conferred pursuant to laws and regulations or contracts such as concessions, licenses, authorizations and permits; and
- (h) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges;

Note: Investments also 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 investments.

(2) the term "investor of a Contracting Party" means a natural person or an enterprise of a Contracting Party that makes investments in the territory of another Contracting Party;

(3) the term "natural person of a Contracting Party" means a natural person that has the nationality of that Contracting Party in accordance with its applicable laws and regulations;

(4) the term "enterprise of a Contracting Party" means any legal person or any other entity constituted or organized 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 organization;

Note: For greater certainty, a branch of an enterprise is not, in and by itself, deemed to be an enterprise.

(5) the term "investment activities" means management, conduct, operation, maintenance, use, enjoyment and sale or other disposition of investments;

(6) the term "freely usable currencies" means freely usable currencies as defined under the Articles of Agreement of the International Monetary Fund;

(7) the term "ICSID Convention" means the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington, March 18, 1965;

(8) the term "UNCITRAL Arbitration Rules" means the arbitration rules of the United Nations Commission on International Trade Law;

(9) the term "WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, April 15, 1994;

(10) the term "ICSID Additional Facility Rules" means the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes.

Article 2
Promotion and Protection of Investments

1. Each Contracting Party shall encourage and create favorable conditions for investors of the other Contracting Parties to make investments in its territory.
2. Each Contracting Party shall, subject to its rights to exercise powers in accordance with the applicable laws and regulations, including those with regard to foreign ownership and control, admit investment of investors of another Contracting Party.

Article 3
National Treatment

1. Each Contracting Party shall in its territory accord to investors of another Contracting Party and to their investments treatment no less favorable than that it accords in like circumstances to its own investors and their investments with respect to investment activities.
2. Paragraph 1 shall not apply to non-conforming measures, if any, existing at the date of entry into force of this Agreement maintained by each Contracting Party under its laws and regulations or any amendment or modification to such measures, provided that the amendment or modification does not decrease the conformity of the measure as it existed immediately before the amendment or modification.

Treatment granted to investment once admitted shall in no case be less favorable than that granted at the time when the original investment was made.

3. Each Contracting Party shall take, where applicable, all appropriate steps to progressively remove all the non-conforming measures referred to in paragraph 2.

Note: The People's Republic of China confirms that its measures referred to in paragraph 2 shall not be inconsistent with paragraph 2 of Article 3 of, and paragraph 3 of the Protocol to, the Agreement between Japan and the People's Republic of China Concerning the Encouragement and Reciprocal Protection of Investment, signed at Beijing, August 27, 1988.