

Attachment 4 (Investment)

1. Framework

- MFN: a request by one side for MFN treatment after the entry into force of the JTEPA will be considered by the other side. The Japanese investor's status as the most important investor in terms of volume of foreign direct investment in Thailand acknowledged in a political declaration to be signed at the time of signing of the JTEPA.
- Modalities: liberalization commitments will be made for non-service sectors using positive list method
- Recommendation will be made to the Royal Thai Government that Japanese investors be exempted from Certificate of Approval for Protection (C.A.P.)
- Performance Requirements: there will be a provision on the basis of which both sides will be able to make commitments not to apply performance requirements.
- Investment in Service Sectors: in respect of post-establishment investment activities the provisions on the Promotion and Protection of Investments, Most Favoured Nation Treatment, Denial of Benefits, Access to the Courts of Justice, Expropriation and Compensation, Protection from Strife, Payments and Transfers, Subrogation, Settlement of Investment Disputes Between a Party and an Investor of the other Party, and Performance Requirements will apply to investment in service sectors.
- State-Investor Dispute Settlement: State-Investor Dispute except for disputes on performance requirement and pre-establishment investment activities may be submitted, under conditions to be specified, to international arbitration.
- Review Mechanism: for all non-service sectors to begin within five years after the entry into force of the JTEPA.
- Ways of ensuring transparency and protecting acquired rights: consultations before the entry into force of the JTEPA.
- Modification of Commitments: may be made in accordance with the JTEPA amendment provision while reflecting the principle of maintaining a general level of mutually advantageous commitments
- Recommendation will be made that the Royal Thai Government states through a political declaration to be signed at the time of the signing of the JTEPA that it has no intention to change its current investment policy to be more restrictive for Japanese investors in Thailand with regard to investment in manufacturing sectors not included in List 1, 2 or 3 of the Foreign Business Act 1999.

2. Liberalization Commitments

Japan's Offer

Coverage will include all non-service sectors with some exceptions. The exceptions include the following industries: Aerospace, Arms and Explosives, Energy, Oil, Agriculture, Forestry, Fisheries and Mining

Thailand's Offer

Less than 50 percent equity participation by Japanese investors for manufacturing of automobiles will be allowed with no requirement to apply for authorization, subject to certain conditions as specified.