

AGREEMENT BETWEEN JAPAN
AND GEORGIA
FOR THE LIBERALISATION, PROMOTION
AND PROTECTION OF INVESTMENT

Japan and Georgia (hereinafter referred to as "the Contracting Parties"),

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

Recognising that a stable framework for investment will maximise effective utilisation of economic resources;

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

Have agreed as follows:

CHAPTER I
INVESTMENT

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 of a Contracting Party, that is made in the Territory of the other Contracting Party in accordance with applicable laws and regulations of the other Contracting Party, and 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 shall include:

- (i) an enterprise and a branch of an enterprise;
- (ii) shares, stocks or other forms of equity participation in an enterprise;
- (iii) bonds, debentures, loans and other forms of debt;
- (iv) futures, options and other derivatives;
- (v) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;
- (vi) claims to money and to any performance under contract having a financial value;
- (vii) 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;
- (viii) 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
- (ix) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges;

A change in the form in which assets are invested does not affect their character as an investment.

For the purposes of this Agreement, investment does not mean an order or judgement entered in a judicial or administrative action or an arbitral award rendered with regard to an 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 laws and regulations; or

- (ii) an enterprise of that Contracting Party,
that seeks to make, is making or has made
investments in the Territory of the other
Contracting Party;
- (c) the term "enterprise" means any legal entity duly
constituted or organised under the applicable
laws and regulations, 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 "enterprise of a Contracting Party"
means an enterprise duly constituted or organised
under the applicable laws and regulations of that
Contracting Party;
- (e) the term "investment activities" means
establishment, acquisition, expansion, operation,
management, maintenance, use, enjoyment and sale
or other disposal of investments;
- (f) the term "Territory" means:
 - (i) with respect to Georgia, the territory
defined in accordance with Georgian
legislation, including land territory, its
subsoil and the air space over them, and
internal waters and territorial sea
including the seabed, its subsoil and the
air space over them, in respect of which
Georgia exercises sovereignty in accordance
with international law, as well as the
contiguous zone, the exclusive economic zone
and the continental shelf, in respect of
which Georgia may exercise its sovereign
rights or jurisdiction in accordance with
international law; and
 - (ii) with respect to Japan, the territory of
Japan, and the exclusive economic zone and
the continental shelf with respect to which
Japan exercises sovereign rights or
jurisdiction in accordance with
international law;

- (g) the term "existing" means being in effect on the date of entry into force of this Agreement;
- (h) the term "freely usable currency" means freely usable currency as defined under the Articles of Agreement of the International Monetary Fund;
- (i) the term "the WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, April 15, 1994;
- (j) the term "the TRIPS Agreement" means the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement;
- (k) the term "claimant" means an investor of a Contracting Party that is a party to an investment dispute with the other Contracting Party;
- (l) the term "respondent" means the Contracting Party that is a party to an investment dispute;
- (m) the term "disputing party" means either the claimant or the respondent;
- (n) the term "disputing parties" means the claimant and the respondent;
- (o) the term "non-disputing Party" means the Contracting Party that is not a party to an investment dispute;
- (p) the term "ICSID" means the International Centre for Settlement of Investment Disputes;
- (q) 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;
- (r) 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;
- (s) the term "New York Convention" means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, June 10, 1958; and

- (t) the term "UNCITRAL Arbitration Rules" means the Arbitration Rules of the United Nations Commission on International Trade Law, as revised in 2010.

Article 2
National Treatment

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 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 Territory, 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

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 investors of a non-Contracting Party and to their investments with respect to investment activities.
2. For greater certainty, the treatment referred to in paragraph 1 does not encompass international dispute settlement procedures or mechanisms under this and any other international agreement.
3. The provisions of this Article shall not be construed so as to oblige a Contracting Party to extend to investors of the other Contracting Party and to their investments any preferential treatment by virtue of any existing or future regional economic integration union or customs union to which the former Contracting Party is a party.

Article 4
General Treatment

Each Contracting Party shall in its Territory accord to investments of investors of the other Contracting Party fair and equitable treatment and full protection and security in accordance with customary international law.

Article 5
Access to the Courts of Justice

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 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 Territory:

- (a) to export a given level or percentage of goods or services;
- (b) to achieve a given level or percentage of domestic content;
- (c) to purchase, use or accord a preference to goods produced or services provided in its Territory, or to purchase goods or services from a natural person or an enterprise in its Territory;
- (d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with an investment of the investor;
- (e) to restrict sales of goods or services in its Territory that an investment of the investor produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;
- (f) to restrict the exportation or sale for export;

- (g) to appoint, as executives, managers or members of board of directors, natural persons of any particular nationality;
- (h) to adopt:
 - (i) a given rate or amount of royalty under a licence contract; or
 - (ii) a given duration of the term of a licence contract,

in regard to any licence contract freely entered into between the investor and a natural person or an enterprise in its Territory, whether it has been entered into or not, provided that the requirement is imposed or the commitment or undertaking is enforced by an exercise of governmental authority of the Contracting Party;

Note: A "licence contract" referred to in this subparagraph means any licence contract concerning transfer of technology, a production process, or other proprietary knowledge.

- (i) to locate the headquarters of the investor for a specific region or the world market in its Territory;
- (j) to hire a given number or percentage of its nationals; or
- (k) to supply one or more of the goods that the investor produces or the services that the investor provides to a specific region or the world market, exclusively from its Territory.

2. Neither Contracting Party may condition the receipt or continued receipt of an advantage, in connection with investment activities of an investor of a Contracting Party or of a non-Contracting Party in its Territory, on compliance with any of the following requirements:

- (a) to achieve a given level or percentage of domestic content;
- (b) to purchase, use or accord a preference to goods produced in its Territory, or to purchase goods from a natural person or an enterprise in its Territory;

- (c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with an investment of the investor;
 - (d) to restrict sales of goods or services in its Territory that an investment of the investor produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings; or
 - (e) to restrict the exportation or sale for export.
3. (a) Subparagraph 1(h) shall not apply when the requirement is imposed or the commitment or undertaking is enforced by a court of justice, administrative tribunal or competition authority to remedy an alleged violation of competition laws.
- (b) Subparagraphs 2(a) and 2(b) shall not apply to requirements imposed by an importing Contracting Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.
4. Paragraphs 1 and 2 shall not apply to any requirement other than the requirements set out in those paragraphs.

Article 7
Non-Conforming Measures

1. Articles 2, 3 and 6 shall not apply to:
- (a) any existing non-conforming measure that is maintained by the central government or a regional or a prefectural government of a Contracting Party, as set out in the Schedule of each Contracting Party in Annex I;
 - (b) any existing non-conforming measure that is maintained by a local government other than a regional or a prefectural government of a Contracting Party referred to in subparagraph (a);
 - (c) the continuation or prompt renewal of any non-conforming measure referred to in subparagraphs (a) and (b); or

- (d) an amendment or modification to any non-conforming measure referred to in subparagraphs (a) and (b), provided that the amendment or modification does not decrease the conformity of the measure, as it existed immediately before the amendment or modification, with Articles 2, 3 and 6.

2. Articles 2, 3 and 6 shall not apply to any measure that a Contracting Party adopts or maintains with respect to sectors, sub-sectors or activities set out in its Schedule in Annex II.

3. Neither Contracting Party shall, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule in Annex II, require an investor of the other Contracting Party, by reason of its nationality, to sell or otherwise dispose of an investment that exists at the time when the measure becomes effective.

4. In cases where a Contracting Party makes an amendment or a modification to any existing non-conforming measure set out in its Schedule in Annex I or where a Contracting Party adopts any new or more restrictive measure with respect to sectors, sub-sectors or activities set out in its Schedule in Annex II after the date of entry into force of this Agreement, the Contracting Party shall, prior to the implementation of the amendment or modification or the new or more restrictive measure, or in exceptional circumstances, as soon as possible thereafter:

- (a) notify the other Contracting Party of detailed information on such amendment or modification, or such measure; and
- (b) hold, upon request by the other Contracting Party, consultations in good-faith with the other Contracting Party with a view to achieving mutual satisfaction.

5. Each Contracting Party shall endeavour, where appropriate, to reduce or eliminate the non-conforming measures specified in its Schedules in Annexes I and II respectively.

6. Articles 2 and 3 shall not apply to any measure covered by the exceptions to, or derogations from, obligations under Articles 3 and 4 of the TRIPS Agreement, as specifically provided in Articles 3 through 5 of the TRIPS Agreement.

7. Articles 2, 3 and 6 shall not apply to any measure that a Contracting Party adopts or maintains with respect to government procurement.

Article 8 Transparency

1. Each Contracting Party shall promptly publish, or otherwise make publicly available, its laws, regulations, administrative procedures, administrative rulings and judicial decisions of general application as well as international agreements which pertain to or affect the implementation and operation of this Agreement.

2. Each Contracting Party shall, upon request by the other Contracting Party, promptly respond to specific questions and provide that other Contracting Party with information on matters set out in paragraph 1.

3. Paragraphs 1 and 2 shall not be construed so as to oblige either Contracting Party to disclose confidential information, which is designated as confidential, or the disclosure of which would impede law enforcement or otherwise be contrary to the public interest, or which would prejudice privacy or legitimate commercial interests.

Article 9 Measures against Corruption

Each Contracting Party shall ensure that measures and efforts are undertaken to prevent and combat corruption regarding matters covered by this Agreement in accordance with its laws and regulations.

Article 10 Entry, Sojourn and Residence of Investors

Each Contracting Party shall, in accordance with its laws and regulations, give sympathetic consideration to applications for entry, sojourn and residence of a natural person having the nationality of the other Contracting Party and a personnel employed by, and an executive, a manager and a member of the board of directors of, an enterprise of the other Contracting Party, who wishes to enter the territory of the former Contracting Party and remain therein for the purpose of investment activities.

Article 11
Expropriation and Compensation

1. Neither Contracting Party shall expropriate or nationalise an investment in its Territory of an investor of the other Contracting Party or take any measure equivalent to expropriation or nationalisation (hereinafter referred to as "expropriation") except:

- (a) for a public purpose;
- (b) in a non-discriminatory manner;
- (c) upon payment of prompt, adequate and effective compensation in accordance with paragraphs 2 and 3; and
- (d) in accordance with due process of law.

2. The compensation shall be equivalent to the fair market value of the expropriated investments at the time when the expropriation was publicly announced or when the expropriation occurred, whichever is earlier. The fair market value shall not reflect any change in value occurring because the expropriation had become publicly known earlier.

3. The compensation shall be paid without delay and shall include interest at a commercially reasonable rate, taking into account the length of time until the time of payment. It shall be effectively realisable and freely transferable and shall be freely convertible into the currency of the Contracting Party of the investors concerned, and into freely usable currency, at the market exchange rate prevailing on the date of expropriation.

4. Non-discriminatory regulatory actions by a Contracting Party that are designed and applied to protect legitimate public welfare objectives, such as public health, safety and the environment, do not constitute expropriation, except in rare circumstances.

5. This Article does not apply to the issuance of compulsory licences granted in relation to intellectual property rights in accordance with the TRIPS Agreement, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with the TRIPS Agreement.

Article 12
Protection from Strife

1. Each Contracting Party shall accord to investors of the other Contracting Party that have suffered loss or damage relating to their investments in the Territory of the former Contracting Party due to armed conflict or a state of emergency such as revolution, insurrection, civil disturbance or any other similar event in the Territory of that former Contracting Party, treatment, as regards restitution, indemnification, compensation or any other settlement, that is no less favourable than that which it accords to its own investors or to investors of a non-Contracting Party, whichever is more favourable to the investors of the other Contracting Party.

2. Any payment as a means of settlement referred to in paragraph 1 shall be effectively realisable, freely transferable and freely convertible at the market exchange rate into freely usable currencies.

3. Neither Contracting Party shall derogate from its obligation under paragraph 1 by reason of its measures taken pursuant to paragraph 2 of Article 15.

Article 13
Subrogation

If a Contracting Party or its designated agency makes a payment to any investor of that Contracting Party under an indemnity, guarantee or insurance contract, pertaining to an investment of such investor in the Territory of the other Contracting Party, the latter Contracting Party shall recognise the assignment to the former Contracting Party or its designated agency of any right or claim of such investor on account of which such payment is made and shall recognise the right of the former Contracting Party or its designated agency to exercise by virtue of subrogation any such right or claim to the same extent as the original right or claim of the investor. As regards payment to be made to that former Contracting Party or its designated agency by virtue of such assignment of right or claim and the transfer of such payment, the provisions of Articles 11, 12 and 14 shall apply *mutatis mutandis*.

Article 14
Transfers

1. Each Contracting Party shall ensure that all transfers relating to investments in its Territory of an investor of the other Contracting Party may be freely made into and out of its Territory without delay. Such transfers shall include, in particular:

- (a) the initial capital and additional amounts to maintain or increase investments;
- (b) profits, interest, capital gains, dividends, royalties, fees or other current incomes accruing from investments;
- (c) payments made under a contract including loan payments in connection with investments;
- (d) proceeds of the total or partial sale or liquidation of investments;
- (e) earnings and remuneration of personnel from abroad who work in connection with investments in the Territory of the former Contracting Party;
- (f) payments made in accordance with Articles 11 and 12; and
- (g) payments arising out of a dispute.

2. Each Contracting Party shall further ensure that such transfers may be made without delay in freely usable currencies at the market exchange rate prevailing on the date of the transfer.

3. Notwithstanding paragraphs 1 and 2, a Contracting Party may delay or prevent a transfer through the equitable, non-discriminatory and good-faith application of its laws and regulations relating to:

- (a) payment of taxes;
- (b) bankruptcy, insolvency or the protection of the rights of creditors;
- (c) issuing, trading or dealing in securities, futures, options or derivatives;
- (d) criminal or penal offences;

- (e) reporting or record keeping of transfers of currency or other monetary instruments when necessary to assist law enforcement or financial regulatory authorities; or
- (f) ensuring compliance with orders or judgements in adjudicatory proceedings.

Article 15
General and Security Exceptions

1. Subject to the requirement that such measures are not applied by a Contracting Party in a manner which would constitute a means of arbitrary or unjustifiable discrimination against, or a disguised restriction on investors of the other Contracting Party and their investments in the Territory of the former Contracting Party, nothing in this Agreement shall be construed so as to prevent the former Contracting Party from adopting or enforcing measures:

- (a) necessary to protect human, animal or plant life or health;
- (b) necessary to protect public morals or to maintain public order, provided that the public order exception may only be invoked where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society;
- (c) necessary to secure compliance with the laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:
 - (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contract;
 - (ii) the protection of the privacy of the individual in relation to the processing and dissemination of personal data and the protection of confidentiality of personal records and accounts; or
 - (iii) safety; or
- (d) imposed for the protection of national treasures of artistic, historic or archaeological value.

2. Subject to paragraph 3 of Article 12, nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or enforcing measures:

- (a) which it considers necessary for the protection of its essential security interests:
 - (i) taken in time of war, armed conflict, or other emergency in that Contracting Party or in international relations; or
 - (ii) relating to the implementation of national policies or international agreements respecting the non-proliferation of weapons; or
- (b) in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

3. Nothing in this Agreement shall be construed to require a Contracting Party to furnish or allow access to any information the disclosure of which it determines to be contrary to its essential security interests.

Article 16 Temporary Safeguard Measures

1. A Contracting Party may adopt or maintain restrictive measures with regard to cross-border capital transactions as well as payments or transfers including transfers referred to in Article 14 for transactions related to investments:

- (a) in the event of serious balance-of-payments and external financial difficulties or threat thereof; or
- (b) in exceptional cases where movements of capital cause or threaten to cause serious difficulties for macroeconomic management, in particular monetary and exchange rate policies.

2. Restrictive measures referred to in paragraph 1 shall:

- (a) be applied in such a manner that the other Contracting Party is treated no less favourably than any non-Contracting Party;
- (b) be consistent with the Articles of Agreement of the International Monetary Fund;

- (c) not exceed those necessary to deal with the circumstances set out in paragraph 1;
- (d) be temporary and be phased out progressively as the situation specified in paragraph 1 improves;
- (e) be promptly notified to the other Contracting Party; and
- (f) avoid unnecessary damages to the commercial, economic and financial interests of the other Contracting Party.

Article 17 Prudential Measures

1. Notwithstanding any other provisions of this Agreement, a Contracting Party shall not be prevented from taking measures relating to financial services for prudential reasons, including measures for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by an enterprise supplying financial services, or to ensure the integrity and stability of its financial system.

2. Where the measures taken by a Contracting Party pursuant to paragraph 1 do not conform with this Agreement, they shall not be used as a means of avoiding the obligations of the Contracting Party under this Agreement.

Article 18 Intellectual Property Rights

1. The Contracting Parties shall grant and ensure the adequate and effective protection of intellectual property rights, and promote efficiency and transparency in intellectual property protection system. For this purpose, the Contracting Parties shall promptly consult with each other at the request of either Contracting Party. Depending on the results of the consultation, each Contracting Party shall, in accordance with its laws and regulations, take appropriate measures to remove the factors which are recognised as having adverse effects to the investments of investors of the other Contracting Party.

2. Nothing in this Agreement shall affect the rights and obligations of the Contracting Parties under multilateral agreements in respect of protection of intellectual property rights to which the Contracting Parties are parties.

3. Nothing in this Agreement shall be construed so as to oblige either Contracting Party to extend to investors of the other Contracting Party and to their investments treatment accorded to investors of a non-Contracting Party and to their investments by virtue of multilateral agreements in respect of protection of intellectual property rights, to which the former Contracting Party is a party.

Article 19
Taxation Measures

1. Nothing in this Agreement shall affect the rights and obligations of either Contracting Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

2. Articles 2, 3 and 6 shall not apply to taxation measures.

Article 20
Health, Safety and Environmental Measures
and Labour Standards

Each Contracting Party recognises that it is inappropriate to encourage investment by investors of the other Contracting Party and of a non-Contracting Party by relaxing its health, safety or environmental measures, or by lowering its labour standards. To this effect, each Contracting Party should not waive or otherwise derogate from such measures or standards as an encouragement for the establishment, acquisition or expansion of investments in its Territory by investors of the other Contracting Party and of a non-Contracting Party.

Article 21
Denial of Benefits

1. A Contracting Party may deny the benefits of this Agreement to an investor of the other Contracting Party that is an enterprise of the other Contracting Party and to its investments if the enterprise is owned or controlled by a natural person or an enterprise of a non-Contracting Party and the denying Contracting Party:

- (a) does not maintain diplomatic relations with the non-Contracting Party; or

- (b) adopts or maintains measures with respect to the non-Contracting Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Agreement were accorded to the enterprise or to its investments.

2. A Contracting Party may deny the benefits of this Agreement to an investor of the other Contracting Party that is an enterprise of the other Contracting Party and to its investments if the enterprise is owned or controlled by a natural person or an enterprise of a non-Contracting Party or of the denying Contracting Party and the enterprise of the other Contracting Party has no substantial business activities in the Territory of the other Contracting Party.

3. For the purpose of this Article, an enterprise is:

- (a) "owned" by a natural person or an enterprise of a Contracting Party or of a non-Contracting Party if more than 50 percent of the equity interest in it is beneficially owned by the natural person or the enterprise; and
- (b) "controlled" by a natural person or an enterprise of a Contracting Party or of a non-Contracting Party if the natural person or the enterprise has the power to name a majority of its directors or otherwise to legally direct its actions.

CHAPTER II DISPUTE SETTLEMENT

Article 22 Settlement of Dispute between the Contracting Parties

1. Each Contracting Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other Contracting Party may make with respect to any matter affecting the implementation of this Agreement.

2. Any dispute between the Contracting Parties as to the interpretation and application of this Agreement, not satisfactorily resolved by consultations through diplomatic channels, shall be referred for decision to an arbitration board. Such arbitration board shall be constituted for each dispute in the following way. Within 60 days from the date of receipt by either Contracting Party from the other Contracting Party of a note requesting arbitration of the dispute, each Contracting Party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator who, upon approval by the Contracting Parties, shall be appointed as the Chairperson, provided that the third arbitrator shall not be a national of either Contracting Party. The Chairperson shall be appointed within 60 days from the date of appointment of the other two arbitrators.

3. If the necessary appointments referred to in paragraph 2 have not been made within the periods referred to in that paragraph, either Contracting Party may, unless otherwise agreed, request the Secretary-General of the Permanent Court of Arbitration at The Hague to make such appointments.

4. The arbitration board shall determine its own procedural rules, after consultation with the Contracting Parties. The arbitration board shall decide the dispute in accordance with this Agreement and the rules and principles of international law applicable to the subject matter. The arbitration board shall within a reasonable period of time reach its decision by a majority of votes. Such decision shall be final and binding.

5. Each Contracting Party shall bear the cost of the arbitrator of its choice and its representation in the arbitral proceedings. The cost of the Chairperson of the arbitration board in discharging his or her duties and the remaining costs of the arbitration board shall be borne equally by the Contracting Parties, unless the arbitration board decides otherwise.

Article 23
Settlement of Investment Disputes
between a Contracting Party
and an Investor of the Other Contracting Party

1. In the event of an investment dispute between the claimant and the respondent, they should initially seek to resolve the dispute through consultation and negotiation, which may include the use of non-binding, third-party procedures.

2. In the event that a disputing party considers that an investment dispute cannot be settled by consultation and negotiation, the claimant may submit to arbitration under this Article a claim:

- (a) that the respondent has breached an obligation under Chapter I; and
- (b) that the claimant has incurred loss or damage by reason of, or arising out of, that breach.

3. Each Contracting Party hereby consents to the submission of a claim to arbitration under this Article in accordance with this Agreement.

4. Notwithstanding paragraph 2, an investor of a Contracting Party may not submit to arbitration under this Article:

- (a) an investment dispute with respect to the establishment, acquisition or expansion of its investments; or
- (b) a claim based on paragraph 1 of Article 8.

5. At least 90 days before submitting any claim to arbitration under this Article, a claimant shall deliver to the respondent a written notice of its intention to submit the claim to arbitration (hereinafter referred to as "notice of intent"). The notice of intent shall specify:

- (a) the name and address of the claimant;
- (b) for each claim, the provision of Chapter I alleged to have been breached and any other relevant provisions;
- (c) the legal and factual basis for each claim; and
- (d) the relief sought and the approximate amount of damages claimed.

6. Provided that six months have elapsed since the events giving rise to the claim, a claimant may submit a claim referred to in paragraph 2 to the arbitration:

- (a) under the ICSID Convention, provided that the Contracting Parties are parties to the ICSID Convention;

- (b) under the ICSID Additional Facility Rules, provided that either Contracting Party, but not both, is a party to the ICSID Convention;
- (c) under the UNCITRAL Arbitration Rules; or
- (d) if the disputing parties agree, under any other arbitration institution or arbitration rules.

7. A claim shall be deemed submitted to arbitration under this Article when the claimant's notice of or request for arbitration (hereinafter referred to in this Article as "notice of arbitration"):

- (a) referred to in paragraph 1 of Article 36 of the ICSID Convention is received by the Secretary-General of ICSID;
- (b) referred to in Article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretary-General of ICSID;
- (c) referred to in Article 3 of the UNCITRAL Arbitration Rules, together with the statement of claim referred to in Article 20 of the UNCITRAL Arbitration Rules, is received by the respondent; or
- (d) under any other arbitration institution or arbitration rules selected under subparagraph 6(d) is received by the respondent, unless otherwise specified by such institution or in such rules.

8. Notwithstanding paragraph 3, no claim may be submitted to arbitration under this Article if more than three years have elapsed from the date on which the claimant first acquired, or should have first acquired, knowledge of the breach alleged under paragraph 2 and knowledge that the claimant has incurred loss or damage.

9. Notwithstanding paragraph 3, no claim may be submitted to arbitration under this Article unless:

- (a) the claimant consents in writing to arbitration in accordance with the procedures set out in this Article; and

- (b) the claimant waives in writing any right to initiate or continue before any administrative tribunal or court of justice under the law of either Contracting Party, or other dispute settlement procedures, any proceedings with respect to any measure alleged to constitute a breach referred to in subparagraph 2(a).

10. The waiver provided pursuant to subparagraph 9(b) shall cease to apply where the arbitral tribunal rejects the claim on the basis of a failure to meet the requirements of paragraphs 5, 6, 8 or 9, or on any other procedural or jurisdictional grounds.

11. Notwithstanding subparagraph 9(b), the claimant may initiate or continue an action that seeks interim injunctive relief that does not involve the payment of monetary damages before an administrative tribunal or court of justice under the law of the respondent.

12. When a claim is submitted to arbitration under this Article, the arbitral tribunal shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.

13. The respondent shall deliver to the non-disputing Party:

- (a) notice of arbitration no later than 30 days after the date on which the claim was submitted; and
- (b) copies of all pleadings filed in the arbitration.

14. The non-disputing Party may, upon written notice to the disputing parties, make submissions to the arbitral tribunal on a question of interpretation of this Agreement.

15. In an arbitration under this Article, the respondent shall not assert, as a defence, counterclaim, right of setoff or otherwise, that the claimant has received or will receive indemnification or other compensation for all or part of the alleged damages pursuant to an insurance or guarantee contract.

16. The arbitral tribunal may award only:

- (a) a judgement whether or not there has been a breach by the respondent of any obligation under Chapter I, subject to paragraph 4, with respect to the claimant and its investments; and

- (b) one or both of the following remedies, only if there has been such a breach:
 - (i) monetary damages including applicable interest; and
 - (ii) restitution of property, in which case the award shall provide that the respondent may pay monetary damages including any applicable interest, in lieu of restitution.

The arbitral tribunal may also award cost and attorney's fees in accordance with applicable arbitration rules.

17. Unless the disputing parties agree otherwise, the place of arbitration shall be in a country that is a party to the New York Convention.

18. The award rendered by the arbitral tribunal shall be final and binding upon the disputing parties. This award shall be executed in accordance with the applicable laws and regulations, as well as relevant international law including the ICSID Convention and the New York Convention, concerning the execution of award in force in the country where such execution is sought.

Article 24 Service of Documents

1. Notices and other documents relating to arbitration under this Chapter shall be served on a Contracting Party by delivery to:

- (a) with respect to Japan, Economic Affairs Bureau, the Ministry of Foreign Affairs; and
- (b) with respect to Georgia, Ministry of Justice of Georgia.

2. A Contracting Party shall promptly make publicly available and notify to the other Contracting Party any change to the name of the authority referred to in paragraph 1.

3. Each Contracting Party shall make publicly available the address of its authority referred to in paragraphs 1 and 2.

CHAPTER III
JOINT COMMITTEE

Article 25
Joint Committee

1. The Contracting Parties shall establish a Joint Committee (hereinafter referred to as "the Committee") with a view to accomplishing the objectives of this Agreement. The functions of the Committee shall be:

- (a) to discuss and review the implementation and operation of this Agreement;
- (b) to review the non-conforming measures maintained, amended or modified pursuant to paragraph 1 of Article 7 for the purpose of contributing to the reduction or elimination of such non-conforming measures;
- (c) to discuss the non-conforming measures adopted or maintained pursuant to paragraph 2 of Article 7 for the purpose of encouraging favourable conditions for investors of the Contracting Parties;
- (d) to exchange information on and to discuss investment-related matters within the scope of this Agreement which relate to improvement of investment environment; and
- (e) to discuss any other investment-related matters concerning this Agreement.

2. The Committee may, as necessary, make appropriate recommendations by consensus to the Contracting Parties for the more effective functioning or the attainment of the objectives of this Agreement.

3. The Committee shall be composed of representatives of the Contracting Parties. The Committee may, upon mutual consent of the Contracting Parties, invite representatives of relevant entities other than the Governments of the Contracting Parties with the necessary expertise relevant to the issues to be discussed, and hold joint meetings with the private sectors.

4. The Committee shall determine its own rules of procedure to carry out its functions.

5. The Committee shall meet upon the request of either Contracting Party.

CHAPTER IV
FINAL PROVISIONS

Article 26
Headings

The headings of the Chapters and Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.

Article 27
Amendments

This Agreement may be amended by mutual written consent of the Contracting Parties, and amendments shall enter into force in the manner as described in paragraph 1 of Article 28 of this Agreement.

Article 28
Final Provisions

1. The Contracting Parties shall notify each other, through diplomatic channels, of the completion of their respective internal procedures necessary for the entry into force of this Agreement. This Agreement shall enter into force on the 30th day after the latter of the dates of receipt of the notifications. It shall remain in force for a period of 10 years after its entry into force and shall continue in force unless terminated as provided for in paragraph 2.
2. A Contracting Party may, by giving one year advance notice in writing to the other Contracting Party, terminate this Agreement at the end of the initial 10 year period or at any time thereafter.
3. This Agreement shall also apply to all investments of investors of either Contracting Party acquired in the Territory of the other Contracting Party in accordance with the laws and regulations of that other Contracting Party prior to the entry into force of this Agreement. However, this Agreement shall not apply to claims or disputes arising out of events which occurred prior to its entry into force.
4. In respect of investments acquired prior to the date of termination of this Agreement, the provisions of this Agreement shall continue to be effective for a period of 10 years from the date of termination of this Agreement.
5. The Annexes to this Agreement shall form an integral part of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE in duplicate at Tbilisi, on this twenty-ninth day of January, 2021 in the English language.

FOR JAPAN:

今村朗

FOR GEORGIA:

N.T.