(3) an enterprise of that Contracting Party,

that seeks to make, is making, or has made investments in the Area of the other Contracting Party;

(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:

(1) with respect to Japan: its territory, and the exclusive economic zone and the continental shelf with respect to which Japan exercises sovereign rights or jurisdiction in accordance with international law; and

(2) with respect to the State of Kuwait: the territory of the State of Kuwait including any area beyond the territorial sea which in accordance with international law has been or may hereafter be designated under the laws of the State of Kuwait, as an area over which it may exercise sovereign rights or jurisdiction;

(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. Notwithstanding paragraph 1, each Contracting Party may prescribe 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.

3. Paragraph 1 does not prevent either Contracting Party from differentiating between treatments accorded in accordance with its laws and regulations relating to taxes.

Article 3
Most-Favoured-Nation 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 investors of a third party and to their investments with respect to investment activities.

2. Paragraph 1 shall not be construed so as to oblige a Contracting Party to extend to investors of the other Contracting Party special tax advantages accorded to investors of a third party, on the basis of reciprocity with the third party or by virtue of any agreement relating to taxes in force between the former Contracting Party and the third party.

Article 4
General Treatment

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. Neither Contracting Party shall, within its Area, in any way impair the operation, management, maintenance, use, enjoyment and sale or other disposal of investments of investors of the other Contracting Party by arbitrary measures.