Chapter 10
Investment

Article 10.1
Scope

1. This Chapter shall apply to measures adopted or maintained by a Party related to:

(a) investors of the other Party;

(b) investments of investors of the other Party in the Area of the former Party; and

(c) with respect to Articles 10.7 and 10.17, all investments in the Area of the former Party.

Note 1: For greater certainty, this Chapter shall also apply to measures adopted or maintained by a Party related to investments made by investors of the other Party in the Area of the former Party prior to the entry into force of this Agreement.

Note 2: For greater certainty, this Chapter shall not apply to claims arising out of events which occurred prior to the entry into force of this Agreement.

2. In the event of any inconsistency between this Chapter and Chapter 7:

(a) with respect to matters covered by Articles 10.3, 10.4 and 10.7, Chapter 7 shall prevail to the extent of the inconsistency; and

(b) with respect to matters not falling under subparagraph (a), this Chapter shall prevail to the extent of the inconsistency.

3. Nothing in this Chapter shall impose any obligation on either Party regarding measures pursuant to immigration laws and regulations.

Article 10.2
Definitions

For the purposes of this Chapter:

(a) the term "Bilateral Investment Agreement" means the Agreement between Japan and Mongolia concerning the Promotion and Protection of Investment signed at Tokyo on February 15, 2001;

(b) an enterprise is:

(i) "owned" by an investor if more than 50 percent of the equity interest in it is owned by the investor; and

(ii) "controlled" by an investor if the investor has the power to name a majority of its directors or otherwise to legally direct its actions;

(c) the term "existing" means in effect on the date of entry into force of this Agreement;

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

(e) the term "investment activities" means establishment, acquisition, expansion, operation, management, maintenance, use, enjoyment and sale or other disposal of an investment; and

(f) the term "measure" means any measure, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form.

Article 10.3
National Treatment

1. Each Party shall in its Area accord to investors of the other Party and to their investments treatment no less favorable than the treatment it accords in like circumstances to its own investors and to their investments with respect to investment activities.