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 and has characteristics of an investment such as commitment of capital or other resources, the expectation of gain or profit, or assumption of risk, including:

(i) a local enterprise or branch;

(ii) shares, stocks or other forms of equity participation in an enterprise, including rights derived therefrom;

(iii) bonds, debentures, loans and other forms of debt, including rights derived therefrom;

(iv) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;

(v) claims to money and to any performance under contract having a financial value;

(vi) 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;

(vii) rights conferred pursuant to laws and regulations or contracts such as concessions, licences, authorisations and permits, including those for the exploration, prospect, exploitation and extraction of natural resources; and

(viii) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges.

An investment includes 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 an investment.

(b) the term "investor of a Contracting Party" means:

(i) a natural person, who under the law of the Contracting Party:

(A) in respect of Japan, is a national of Japan; and

(B) in respect of the Republic of Kenya, is a citizen or national of the Republic of Kenya; or

(ii) an enterprise of that Contracting Party,

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

(c) an enterprise is:

(i) "owned" by an investor if more than fifty (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;

(d) 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;

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

(f) the term "Area" means: