(i) in respect of 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; and

(ii) in respect of the Republic of Kenya, the land territory, internal waters, territorial sea and the airspace above them, as well as the maritime zone beyond the territorial sea, including the seabed and subsoil, over which the Republic of Kenya exercises sovereign rights or jurisdiction in accordance with its national laws in force and international law, for the purpose of exploration and exploitation of the natural resources of such areas; and

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

Article 2
Promotion and Admission of Investment

1. Each Contracting Party shall encourage and create favourable conditions for investors of the other Contracting Party to make investments in its Area.

2. Each Contracting Party shall, subject to its applicable laws and regulations, including those with regard to foreign ownership and control, admit investment of investors of the other Contracting Party.

Article 3
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. Paragraph 1 shall not be construed so as to prevent a Contracting Party from adopting or maintaining a measure that prescribes special formalities in connection with investment activities of foreign investors in its Area in accordance with its laws and regulations, provided that such special formalities do not impair the substance of the rights of investors of the other Contracting Party under this Agreement.

3. Paragraph 1 shall not apply to measures adopted or maintained by a Contracting Party with respect to incentives only for the purpose of promoting small and medium sized enterprises in its Area, to the extent that such measures do not materially affect the investments or investment activities of the investors of the other Contracting Party.

Article 4
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 non-Contracting Party and to their investments with respect to investment activities.

2. 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 non-Contracting Party and to their investments with respect to the admission of investments.

3. The provision of paragraph 2 shall not apply to:

(a) measures related to:

(i) the acquisition of land property;

(ii) subsidies; or

(iii) government procurement;

(b) any treatment accorded by a Contracting Party to investors of a non-Contracting Party and to their investments on the basis of reciprocity;

(c) any preferential treatment resulting from the membership to any bilateral or multilateral international agreement involving protection of new varieties of plants, aviation, fishery or maritime matters; and

(d) any measure relating to investments in public law enforcement and correctional services, and in public social services such as income security or insurance, social security or insurance, social welfare, primary and secondary education, public training, health and child care.