

No. 3240

**UNITED STATES OF AMERICA
and
JAPAN**

**Agreement (with exchange of notes) regarding the guaranty
of investments. Signed at Tokyo, on 8 March 1954**

Official texts: English and Japanese.

Registered by the United States of America on 11 April 1956.

**ÉTATS-UNIS D'AMÉRIQUE
et
JAPON**

**Accord (avec échange de notes) concernant la garantie des
investissements. Signé à Tokyo, le 8 mars 1954**

Textes officiels anglais et japonais.

Enregistré par les États-Unis d'Amérique le 11 avril 1956.

No. 3240. AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND JAPAN REGARDING THE GUARANTY OF INVESTMENTS. SIGNED AT TOKYO, ON 8 MARCH 1954

The Government of the United States of America and the Government of Japan :

Recognizing that economic benefits will accrue to the United States of America and Japan from the guaranties by the United States of America of private investments which may be made in Japan by nationals of the United States of America pursuant to the provisions of Section 111 (b) (3) of the Economic Cooperation Act of 1948, as amended ;² and

Desiring to set forth the understandings concerning such guaranties ;
Have agreed as follows :

Article I

The Government of the United States of America and the Government of Japan will, upon the request of either Government, consult respecting projects in Japan proposed by nationals of the United States of America with regard to which guaranties under Section 111 (b) (3) of the Economic Cooperation Act of 1948, as amended, may be made or are under consideration.

Article II

With respect to guaranties extended by the Government of the United States of America in accordance with the provisions of the Section referred to in Article I to projects which are approved by the Government of Japan, the Government of Japan agrees :

(1) That if the Government of the United States of America makes payment in United States dollars to any person under any such guaranty, the Government of Japan will recognize the transfer to the Government of the United States of America of any right, title or interest of such person in assets, currency, credits, or other property on account of which such payment was made and the subrogation of the Government of the United States of America to any claim or cause of action of such person arising in connection therewith. The Government of Japan

¹ Came into force on 1 May 1954, the date of receipt by the Government of the United States of America of notification of approval of the Agreement from the Government of Japan, in accordance with article III.

² United States of America : 62 Stat. 144 ; 22 U.S.C. § 1509 (b) (3).

shall also recognize any transfer to the Government of the United States of America pursuant to such guaranty of any compensation for loss covered by such guaranties received from the Government of Japan ;

(2) That yen amounts acquired by the Government of the United States of America pursuant to such guaranties shall be accorded treatment not less favorable than that accorded, at the time of such acquisition, to private funds arising from transactions of United States nationals which are comparable to the transactions covered by such guaranties, and that such yen amounts may be used without restriction by the Government of the United States of America for non-military administrative expenditures ;

(3) That any claim against the Government of Japan to which the Government of the United States of America may be subrogated as the result of any payment under such a guaranty, shall be the subject of direct negotiations between the two Governments. If, within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to a sole arbitrator selected by mutual agreement. If the Governments are unable, within a period of three months, to agree upon such selection, the arbitrator shall be one who may be designated by the President of the International Court of Justice at the request of either Government.

Article III

This Agreement shall enter into force on the date of receipt by the Government of the United States of America of a note from the Government of Japan stating that Japan has approved the Agreement in accordance with its legal procedures.

IN WITNESS WHEREOF the representatives of the two Governments, duly authorized for the purpose, have signed this Agreement.

DONE in duplicate, in the English and Japanese languages, both equally authentic, at Tokyo, this eighth day of March, one thousand nine hundred fifty-four.

For the United States of America :
John M. ALLISON

For Japan :
Katsuo OKAZAKI

[TRANSLATION¹ — TRADUCTION²]

Tokyo, March 8, 1954

Mr. Ambassador,

[See note II]

I avail myself of this opportunity to renew to Your Excellency, Mr. Ambassador, the assurance of my highest consideration.

Katsuo OKAZAKI

Minister for Foreign Affairs of Japan

His Excellency Mr. John M. Allison
Ambassador Extraordinary and Plenipotentiary
of the United States of America to Japan

II

The American Ambassador to the Minister for Foreign Affairs of Japan

THE FOREIGN SERVICE OF THE UNITED STATES OF AMERICA

AMERICAN EMBASSY, TOKYO

No. 1327

March 8, 1954

Excellency :

I have the honor to refer to Your Excellency's Note of March 8, 1954, which reads as follows :

“I have the honor to refer to the Agreement signed today between Japan and the United States of America regarding the Guaranty of Investments.

“It is the understanding of my Government that specific approval by the Government of Japan of each investment to be made by nationals of the United States of America, and to be guaranteed by the Government of the United States of America, is required prior to the extension of such guaranty by that Government.

“My Government further understands that guaranties against inconvertibility, covering investments qualifying under the Foreign Investment Law and the Foreign Exchange and Foreign Trade Control Law will be drawn with the intention of creating claims by guaranteed investors against the Government of the United States of America only upon the presentation

¹ Translation by the Government of the United States of America.

² Traduction du Gouvernement des États-Unis d'Amérique.

of evidence of refusal by the Government of Japan of applications for the conversion of those yen amounts which are eligible for conversion under the terms and conditions of the aforesaid laws.

“If this is also the understanding of your Government, Your Excellency’s Note in confirmation thereof will be appreciated.”

I am pleased to confirm, on behalf of the Government of the United States of America, the understandings of the Government of Japan as stated in Your Excellency’s Note under reference.

Accept, Excellency, the renewed assurances of my highest consideration.

[SEAL] John M. ALLISON

His Excellency Katsuo Okazaki
Minister for Foreign Affairs of Japan