

## Korea, Republic of

### Foreign Investment Promotion Act (1998)

*Unofficial translation*

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# Foreign Investment Promotion Act

Amended up till Act No. 14839, July 26, 2017

## Article 1

The purpose of this Act is to promote foreign investment in Korea by providing necessary support and benefit and to contribute to the sound development of the nation's economy.

## Article 2. Definitions

1) The terms used in this Act are defined as follows:

1. The term "foreigner" means an individual with a foreign nationality, a corporation established in accordance with a foreign law (hereinafter referred to as "foreign corporation") or an international economic cooperative organization prescribed by Presidential Decree;
2. The term "national of the Republic of Korea" means an individual who has the nationality of the Republic of Korea;
3. The term "Korean corporation" means a corporation established in accordance with the Acts of the Republic of Korea;
4. The term "foreign investment" means any of the following terms:
  - a. Where a foreigner holds stocks or shares (hereinafter referred to as "stocks, etc.") of a Korean corporation (including a Korean corporation in the process of establishment; hereafter the same shall apply in (i) below) or a company run by a national of the Republic of Korea, as prescribed by Presidential Decree, by any of the following methods in order to establish a continuous economic relationship with the Korean corporation or company, such as participating in the management of such Korean corporation or company in accordance with this Act:
  - b. A loan with maturity of not less than five years (based on the loan maturity prescribed in the first loan contract), which is provided to a foreign-capital invested company by any of the following entities:
  - c. Where a foreigner contributes to a nonprofit corporation pursuant to this Act in order to establish a continuous cooperative relationship with the corporation which satisfies the standards prescribed by Presidential Decree in terms of research personnel, facility, etc. and which is a corporation (including a corporation in the process of establishment) of the Republic of Korea in the field of science and technology;
  - d. Other contributions to a non-profit corporation by a foreigner, which the Foreign Investment Committee established under Article 27 (hereinafter referred to as the "Foreign Investment Committee") recognizes as a foreign investment in accordance with the standards prescribed by Presidential Decree regarding the business contents, etc. of the non-profit corporation;
5. The term "foreign investor" means a foreigner who holds stocks, etc. or has contributed as prescribed by this Act;
5. The term "foreign investor" means a foreigner who holds stocks, etc. or has contributed as prescribed by this Act;
6. The term "foreign-capital invested company or foreigner-contributed nonprofit corporation" means a company in which a foreign investor has invested, or a nonprofit corporation to which a foreign investor has contributed;
7. The term "operator of establishments built to improve foreign-investment environment" means any person who operates establishments prescribed by Presidential Decree, including schools and medical institutions, etc. for foreigners in order to improve foreign investment environment;
8. The term "object of investment" means any object in which a foreign investor invests in order to possess stocks, etc. under this Act, and which falls under any of the followings:
  - a. Foreign means of payment under the Foreign Exchange Transactions Act or domestic means of payment incurred by the exchange of such foreign means of payment;
  - b. Capital goods;
  - c. Proceeds from the stocks, etc. acquired by this Act;
  - d. Industrial property rights, intellectual property rights prescribed by Presidential Decree, other technologies corresponding thereto, and rights pertaining to the use of such rights or technologies; (e)

Where a foreigner closes his/her own branch company or office in Korea and converts the branch company or office into another domestic corporation, or where a domestic corporation the stocks of which are possessed by a foreigner is dissolved, the remaining property that will be allotted to such foreigner upon the liquidation of such branch company, office, or corporation;

- f. The amount of redemption of loans under subparagraph 4 (b) or of other loans from foreign countries;
- g. Stocks prescribed by Presidential Decree;
- h. Real estate located in Korea;
- i. Other means of domestic payment prescribed by Presidential Decree;

9. The term "capital goods" means machinery, apparatus, facilities, equipment, parts, accessories as industrial facilities (including vessels, motor vehicles, aircraft, etc.), livestock, breeds or seeds, trees, fish and shellfish which are necessary for the development of agriculture, forestry, and fisheries, raw materials and reserve supply deemed necessary by the competent Minister (referring to the head of the central administrative agency in control of the project concerned; hereinafter the same shall apply) for the initial test (including pilot projects) of the facilities concerned, and the fees for transportation and insurance required for the introduction thereof and other know-how or service necessary therefor;

2) For the purposes of this Act, the provisions of this Act concerning foreigners shall apply to individuals prescribed by Presidential Decree among nationals of the Republic of Korea who hold permanent residency in a foreign country.

### **Article 3. Protection, etc. of foreign investment**

1) Remittance of proceeds accruing from the stocks, etc. acquired by a foreign investor, proceeds from the sale of stocks, etc., and the principal, interests, and service charges paid under the loan contract referred to in Article 2 (1) 4 (b) to a foreign country, shall be guaranteed in accordance with the details of the report or permission of the foreign investment at the time of such remittance.

2) Except as otherwise prescribed by the Acts of the Republic of Korea, foreign investors and foreign-capital invested companies shall be treated in the same way as nationals of the Republic of Korea or Korean corporations in respect of their business operation.

3) Except as otherwise prescribed by other Acts, the provisions concerning tax exemptions and reductions of the tax Acts applied to nationals of the Republic of Korea or Korean corporations shall also apply to foreign investors, foreign-capital invested companies, and persons who grant loans under Article 2 (1) 4 (b).

4) Matters necessary concerning procedures for remittance foreign countries under paragraph (1) shall be prescribed by Presidential Decree.

### **Article 4. Liberalization, etc. of foreign investment**

1) Except as otherwise prescribed by the Acts of the Republic of Korea, a foreigner may engage in, without restraint, various activities of foreign investment in the Republic of Korea.

2) No foreigner shall be restricted from making any foreign investment prescribed in this Act, except in the following circumstances:

3) The categories of businesses in which foreign investment is restricted in accordance with any of the subparagraphs of paragraph (2) and the details of restrictions shall be prescribed by Presidential Decree.

4) Where the head of a relevant administrative agency restricts foreign investment, such as treating foreigners or foreign-capital invested companies unfavorably compared to Korean nationals or Korean corporations, or charging additional liabilities to foreigners or foreign-capital invested companies, in other Acts and subordinate statutes or public notifications than this Act, the Minister of Trade, Industry and Energy shall combine and publicly announce the details thereof each year, as prescribed by Presidential Decree. If the head of a relevant administrative agency intends to amend or add any restriction, he/she shall seek prior consultation with the Minister of Trade, Industry and Energy.

### **Article 4.2. Formulation, etc. of plans to stimulate foreign investment**

1) In order to stimulate foreign investment, the Minister of Trade, Industry and Energy shall formulate a plan to stimulate foreign investment (hereinafter referred to as "stimulus plan") each year by integrating and coordinating plans to stimulate foreign investment submitted by the heads of relevant central administrative agencies, the Special Metropolitan City Mayor, Metropolitan City Mayors, Special Self-Governing City Mayor, Do Governors, or the Governor of a Special Self-Governing Province (hereinafter referred to as "Mayor/Do Governor") pursuant to paragraph (3), and determine such plan after deliberation thereon by the Foreign Investment Committee.

2) Each stimulus plan shall include the following matters:

3) The heads of related central administrative agencies and the Mayors/Do Governors shall submit a foreign investment stimulus plan for the following year to the Minister of Trade, Industry and Energy by December 31 each year.

4) The Minister of Trade, Industry and Energy, the heads of related central administrative agencies and the Mayors/Do Governors shall submit the implementation outcomes concerning the stimulation of foreign investment of the previous year to the Foreign Investment Committee by the end of February of the following year, and the Foreign Investment Committee shall evaluate such outcomes.

5) The Minister of Trade, Industry and Energy may request the Mayors/Do Governors, the president of the Korea Trade-Investment Promotion Agency established under the Korea Trade-Investment Promotion Agency Act (hereinafter referred to as the "Korea Trade-Investment Promotion Agency") and the heads of relevant financial institutions prescribed by Presidential Decree to submit data necessary for formulating a stimulus plan, etc.

6) Upon receipt of a request made under paragraph (5), the Mayors/Do Governors, the president of the Korea Trade-Investment Promotion Agency and the heads of the relevant financial institutions shall comply therewith, unless other specific grounds exist.

#### **Article 5. Reporting on Foreign Investment**

1) Where a foreigner intends to make an investment by acquiring stocks, etc. newly issued by a Korean corporation (including a Korean corporation in the process of establishment) or a company run by a national of the Republic of Korea, the foreigner shall report thereon to the Minister of Trade, Industry and Energy in advance, as prescribed by Ordinance of the Ministry of Trade, Industry and Energy. The same shall also apply where he/she intends to modify any reported details prescribed by Presidential Decree, such as the amount of foreign investment and the ratio thereof (referring to the ratio of the stocks, etc. owned by foreign investors to the total stocks, etc. of a foreign-capital invested company; hereinafter the same shall apply).

2) Upon receipt of a report filed under paragraph (1), the Minister of Trade, Industry and Energy shall issue a certificate of completion of report to the relevant reporting person without delay.

#### **Article 6. Permission of Foreign Investment, etc.**

1) Where a foreigner (including specially related persons prescribed by Presidential Decree; hereafter the same shall apply in this Article) intends to make an investment by acquiring stocks or shares which have already been issued by a company run by a national of the Republic of Korea or a Korean corporation (hereinafter referred to as "existing stocks, etc."), he/she shall report thereon to the Minister of Trade, Industry and Energy in advance, as prescribed by Ordinance of the Ministry of Trade, Industry and Energy. The same shall also apply where he/she intends to modify any reported details prescribed by Presidential Decree, such as the amount of foreign investment and the ratio thereof: Provided, That where he/she acquires existing stocks, etc. issued by a listed stock corporation under the Financial Investment Services and Capital Markets Act (excluding public corporations referred to in Article 152 (3) of the same Act and corporations which are restricted to acquire stocks under separate Acts), he/she may report such fact or modification within 30 days after such acquisition.

2) Upon receipt of a report filed under paragraph (1), the Minister of Trade, Industry and Energy shall issue a certificate of completion of report to the relevant reporting person without delay.

3) Where a foreigner intends to make a foreign investment by acquiring the existing stocks, etc. of a defense industry company prescribed by Presidential Decree, the foreigner shall obtain permission from the Minister of Trade, Industry and Energy in advance, as prescribed by Ordinance of the Ministry of Trade, Industry and Energy. The same shall also apply where he/she intends to modify any permitted details prescribed by Presidential Decree, such as the amount of foreign investment and the ratio thereof.

4) Upon receipt of an application for permission filed under paragraph (3), the Minister of Trade, Industry and Energy shall determine whether to grant permission or not, and notify the relevant applicant of his/her determination within a period prescribed by Presidential Decree.

5) The Minister of Trade, Industry and Energy shall consult with the competent minister before he/she determines whether to grant permission or not under paragraph (4).

6) Where the Minister of Trade, Industry and Energy deems it necessary to attach conditions to permission granted under paragraph (4), he/she may do so.

7) No one who has acquired existing stocks, etc. in violation of paragraphs(3) and(6) shall exercise his/her voting rights in such existing stocks, and the Minister of Trade, Industry and Energy may order such person to transfer the relevant existing stocks, etc. to a third party, as prescribed by Presidential Decree.

8) Except as otherwise specifically provided for in paragraphs (1) through (7), matters necessary for the acquisition of existing stocks, etc. by a foreigner shall be prescribed by Presidential Decree.

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**Article 7. Acquisition of stocks, etc. by mergers, etc.**

[Repeal]

**Article 8. Foreign investment in form of long-term loans**

[Repeal]

**Article 9. Tax reduction and exemption for foreign investment**

[Repeal]

**Articles 10-12**

[Repealed]

**Article 13. Lease and sale of state or public property**

1) The Minister of Strategy and Finance, administrative agencies of State property, heads of local governments, heads of public institutions under the Act on the Management of Public Institutions (hereinafter referred to as "public institution") or the heads of local public enterprises under the Local Public Enterprises Act (excluding local government-directly operated enterprises; hereafter referred to as "local public enterprise" in this Article) may allow foreign-invested companies or the operators of establishments built to improve a foreign-investment environment (hereafter referred to as "foreign invested companies, etc." in this Article and Article 14) to use or profit from land, factories or other property (hereinafter referred to as "land, etc.") owned by the State, local governments, public institutions or local public enterprises, or may lend (hereinafter referred to as "lease") or sell such land, etc. to foreign invested companies, etc. by a negotiated contract, notwithstanding the relevant provisions of the following Acts:

2) Foreign-capital invested companies that are allowed to use, profit from, lease or purchase land, etc. as prescribed in paragraph (1) shall be limited to companies meeting the minimum foreign investment ratio prescribed by Presidential Decree, and such companies shall maintain the minimum foreign investment ratio for a period prescribed by Presidential Decree (excluding where such companies temporarily fail to maintain the minimum foreign investment ratio for a period prescribed by Ordinance of the Ministry of Trade, Industry and Energy; hereinafter the same shall apply) after concluding a negotiated contract under the same paragraph: Provided, That the foregoing shall not apply to a foreign-capital invested company, which has made great contributions to the national economy in terms of the scale of employment creation, amount of foreign investment, effects of technology transfer, etc.:

3) Where land, etc. owned by the State, local governments, public institutions or local public enterprises are leased as prescribed in paragraph (1), the lease term corresponding to subparagraphs 1 through 5 of the same paragraph may be set within a maximum period of 50 years, notwithstanding the following provisions:

4) Where land owned by the State or a local government is leased pursuant to paragraph (1), building a factory or other permanent facilities on such land may be allowed, notwithstanding Article 18 of the State Property Act and Article 13 of the Public Property and Commodity Management Act. In such case, such land may be leased on condition that the relevant factory or other facilities be donated to the State or the local government, or returned after such land is reinstated at the end of the lease term, considering the type of relevant facilities, etc.

5) Where land, etc. owned by the State, a local government, public institution or local public enterprise

is leased pursuant to paragraph (1), rental charges corresponding to subparagraphs 1 through 5 of the same paragraph shall be, as prescribed by Presidential Decree, notwithstanding the following provisions, and may be indicated in a foreign currency if necessary:

6) Where land, etc. referred to in paragraph (1) is sold to a foreign-invested company, etc. and a purchaser is deemed to have difficulty making a lump-sum payment of the purchase price, payment may be deferred or made in installments, as prescribed by Presidential Decree, notwithstanding Article 50 (1) of the State Property Act, Article 37 of the Public Property and Commodity Management Act and Article 39 (3) of the Act on the Management of Public Institutions.

7) Where the Minister of Strategy and Finance or an administrative agency of State property leases any of the following State-owned land, etc. to a foreign-invested company running a business prescribed by Presidential Decree, he/she or it may reduce or exempt rental charges for the relevant land, etc., as prescribed by Presidential Decree, after consulting with the Minister of Trade, Industry and Energy, notwithstanding Article 38 of the Industrial Sites and Development Act:

8) Where State-owned land, etc. is leased to an operator of establishments built to improve a foreign-investment environment, the Minister of Strategy and Finance or the administrative agency of State property may reduce or exempt rental charges for the relevant land, etc., as prescribed by Presidential Decree, notwithstanding Articles 32 (1) and 47 of the State Property Act.

9) Where the head of a local government leases land, etc. owned by the local government to a foreign-invested company, etc., he/she may reduce or exempt rental charges for the land, etc., as prescribed by Presidential Decree, notwithstanding Articles 22, 24, 32 and 34 of the Public Property and Commodity Management Act.

10) Where land, etc. leased to a foreign-invested company, etc. with rental charges reduced or exempted pursuant to paragraphs (7) through (9) is located within an industrial complex as defined in subparagraph 8 of Article 2 of the Industrial Sites and Development Act, the lease term may be set within a maximum period of 50 years, notwithstanding Article 38 of the same Act.

11) The lease term referred to in paragraphs (3) and (10) may be extended. In such case, the lease term so extended on each occasion shall not exceed the period provided for in paragraphs (3) and (10).

#### **Article 14. Support for foreign investment inducement activities of local governments**

1) Where a local government requests the State to provide funds necessary for the formation of a foreign investment zone prescribed in Article 18, loan for the purchase of land to be leased to any foreign-invested company, etc., reduction or exemption of the rental payments of land, etc., reduction of lot prices (including such cases where a local government provides the money, where any person prescribed by Presidential Decree leases the land, etc. to any foreign invested company, etc. with the rental payments reduced or exempted or sells at a price lower than the land preparation costs, for the portion equivalent to the amount of the rental payments reduced or exempted as such or to the difference between the land preparation costs and the lot prices), payment of various kinds of subsidies, such as the education and training subsidy, and other foreign investment inducement projects, the State shall provide such funds to the maximum extent possible.

2) The criteria and procedures for the provision of funds by the State to a local government in accordance with paragraph (1) shall be determined by the Foreign Investment Committee, as prescribed by Presidential Decree. For determining the criteria for the provision of funds in such cases, efforts made by a local government for the inducement of foreign investment and the actual outcomes thereof shall be taken into consideration.

3) The State shall estimate the amount of funds to be provided in accordance with paragraph (1) each year and include the estimated amount in its budget.

4) Where necessary for the purpose of promoting the inducement of foreign investment or improving foreign investment environment, a local government may pay a foreign-capital invested company an employment subsidy, etc. determined by Presidential Decree, as prescribed by Municipal Ordinances.

#### **Article 14.2. Cash grants for foreign investments**

1) Where a foreigner makes any of the following foreign investments, the State or a local government may provide to the foreigner cash grants required for the uses prescribed by Presidential Decree, including the construction of new factories, taking into account whether the relevant foreign investment accompanies high technology, the effect of technology transfer, the scale of job creation, whether the

foreign investment overlaps any domestic investment, and the propriety of the location in which the foreign investment is made, etc.:

1. Where installing new factory facilities or expanding existing factory facilities (referring to a place of business in cases of any business, other than the manufacturing business) in order to run the business stipulated in Article 121-2 (1) 1 of the Restriction of Special Taxation Act;
  2. Where newly installing or expanding factory facilities in order to produce components and materials prescribed by Presidential Decree, defined in subparagraph 1 of Article 2 of the Act on Special Measures for the Promotion of Specialized Enterprises, etc. for Materials and Components;
  3. Where newly installing or expanding factory facilities (referring to a place of business in cases of any business, other than the manufacturing business) creating new employment exceeding the number of regular workers prescribed by Presidential Decree;
  4. Where the number of regular employment of full-time researcher is five or more persons, consisting of persons holding at least a master's degree in the field related to the business stipulated in Article 121-2 (1) 1 of the Restriction of Special Taxation Act (referred to as "business" hereafter in this subparagraph), or persons holding a bachelor's degree related to the business with at least three years' research experience, which meets either of the following requirements:
    - a. Where a research facility is newly installed or expanding to conduct research and development activities for the business;
    - b. Where a nonprofit corporation that has received contributions pursuant to Article 2 (1) 4 (c) newly installs or expanding research facilities;
  5. Where it is an investment that has a large effect on the domestic economy for its investment amount, which the Foreign Investment Committee deemed necessary in accordance with standards prescribed by Presidential Decree in terms of requirements for foreign investors, etc.
- 2) The amount of cash grants referred to in paragraph (1) shall be determined after negotiating with the relevant foreigner, subject to deliberation by the Foreign Investment Committee.
  - 3) Methods and procedures for providing cash grants under paragraph (1), and other necessary matters, shall be prescribed by Presidential Decree.
  - 4) A local government that provides a foreigner with cash grants under paragraph (1), may prescribe matters concerning the determination on the provision of cash grants, the methods for calculating limits on cash grants, procedures for negotiating the investment support with foreigners and other necessary matters by its ordinance, except otherwise expressly prescribed in paragraph (3).

#### **Article 14.3. Monetary rewards for inducing foreign investment**

- 1) The head of a local government may grant monetary rewards to a person recognized as having greatly contributed to inducing foreign investment in proportion to the outcomes of inducing foreign investment, as prescribed by ordinances of the relevant local government.
- 2) The head of a public agency may grant monetary rewards to a person recognized as having greatly contributed to inducing foreign investment according to the standards established by the Minister of Trade, Industry and Energy, following deliberation thereon by the Foreign Investment Committee in proportion to the outcomes of inducing foreign investment: Provided, That no monetary rewards shall be paid in addition to the monetary rewards provided under paragraph (1).

#### **Article 15. Establishment of foreign Investment Support Center**

- 1) A Foreign Investment Support Center (hereinafter referred to as the "Investment Support Center") shall be established in the Korea Trade-Investment Promotion Agency in order to conduct consultations, guidance, advertisement, investigation, research, and treatment of civil petitions either directly or by proxy, the nurturing of business start-up, etc. concerning foreign investment and provide comprehensive support measures for foreign investors and foreign-capital invested companies.
- 2) Where necessary to properly perform foreign investment-related affairs, the president of the Korea Trade-Investment Promotion Agency may request the relevant administrative agencies, corporations or organizations related to foreign investment (hereinafter referred to as "foreign-investment related agencies") to dispatch their public officials or executives and employees to render service at the Investment Support Center: Provided, That where the service of public officials is required, prior consultation with the competent minister shall be made.
- 3) Where necessary to efficiently manage foreign investment-related duties by foreign investors or foreign-capital invested companies, the president of the Korea Trade-Investment Promotion Agency may request the head of a relevant administrative agency having jurisdiction over the relevant duty to establish a sub-branch of the agency within the Investment Support Center. In such cases, the head of the agency upon receipt of such request shall comply therewith, unless other specific grounds exist to the contrary.
- 4) The Investment Support Center shall be run mainly by officers and employees of the Korea Trade-Investment Promotion Agency who have considerable knowledge and experience in foreign investment, and public officials or the officers and employees of foreign-investment related agencies dispatched to the Investment Support Center in accordance with paragraph (2) (hereinafter referred to as "dispatched

the Investment Support Center in accordance with paragraph (2) (hereinafter referred to as "dispatched officers") shall render their support for the business matters of the Investment Support Center.

5) The head of a relevant administrative agency or a foreign-investment related agency to whom a request for dispatching public officials or officers or employees has been made in accordance with paragraph (2) shall select those who are well-suited for the business matters in question and dispatch them, unless other specific grounds exist to the contrary, and where he/she intends to stop the dispatched service before the period for service expires, he/she shall consult in advance with the president of the Korea Trade- Investment Promotion Agency.

6) The head of a relevant administrative agency or a foreign-investment related agency who dispatches public officials or officers or employees under his/her jurisdiction in accordance with paragraph (2) may give preferential treatment to the dispatched officers in terms of their promotion, position transfer, rewards, and welfare measures.

7) Where necessary to conduct the business under paragraph (1), the president of the Korea Trade- Investment Promotion Agency may request the relevant administrative agency or the foreign-investment related agency to request cooperation, and the head of the agency in receipt of such request shall comply therewith, unless other specific grounds exist to the contrary.

8) [Repealed]

9) Matters necessary for the composition and operation of the Investment Support Center shall be prescribed by Presidential Decree.

#### **Article 15.2. Foreign investment ombudsmen, etc.**

1) In order to resolve complaints from foreign investors and foreign-capital invested companies, foreign investment ombudsmen shall be commissioned from among persons with abundant knowledge and experience in foreign investment affairs.

2) The foreign investment ombudsmen referred to in paragraph (1) (hereinafter referred to as "foreign investment ombudsmen") shall be commissioned by the President, after the recommendation of the Minister of Trade, Industry and Energy and deliberation thereon by the Foreign Investment Committee.

3) Where necessary for resolving complaints from foreign investors and foreign-capital invested companies, any foreign investment ombudsman may request the head of a relevant administrative agency and the head of a foreign-investment related agency (hereinafter referred to as "relevant administrative agency, etc.") to render the following necessary cooperation. In such cases, the head of a relevant administrative agency, etc. in receipt of such request shall comply therewith, except in extenuating circumstances:

4) Where deemed necessary after resolving complaints of foreign investors and foreign-capital invested companies, any foreign investment ombudsman may recommend the heads of relevant administrative agencies and the heads of public institutions to take corrective measures on related affairs.

5) Upon receipt of recommendations made under paragraph (4), the heads of relevant administrative agencies or public institutions shall, in writing, notify foreign investment ombudsmen of handling results within the period prescribed by Presidential Decree.

6) Where the heads of relevant administrative agencies or public institutions fail to implement recommendations made under paragraph (4), foreign investment ombudsmen may request them to submit matters concerning such recommendations to the Foreign Investment Committee as an agenda.

7) In order to promote the improvement of regulations on complaints of foreign investors and foreign-invested companies in an organized manner, foreign investment ombudsmen shall prepare an annual report on reorganization activities, such as the current status of regulations and systems obstructing foreign investment, results of improvement thereof, etc., and submit the report to the Foreign Investment Committee, as prescribed by Presidential Decree.

8) No foreign investment ombudsmen shall use data received from the heads of relevant administrative agencies, etc. pursuant to paragraph (3) or confidential information that they have become aware of in the course of performing duties for any purposes other than those prescribed by this Act, or divulge it to any third party.

9) Foreign investment ombudsmen shall be deemed a public official for the purposes of penal provisions under Articles 129 through 132 of the Criminal Act.

10) A grievance committee shall be established within the Korea Trade-Investment Promotion Agency in order to support the duties of foreign investment ombudsmen.

11) Matters necessary for the composition and operation of the grievance committee shall be prescribed by Presidential Decree.

#### **Article 16. Foreign investment promotion offices**

1) Central administrative agencies, Special Metropolitan City, Metropolitan Cities, Special Self-Governing City, Do, Special Self-Governing Provinces and Si/Guns/Gu (referring to autonomous



Governing City, Dos, Special Self-Governing Province and Sis/Guns/Gus (referring to autonomous Gus) may each designate the office in charge of foreign investment as a foreign investment promotion office, or establish a foreign investment promotion office, in order to efficiently provide support for foreign investment by encouraging the smooth handling of civil petitions concerning permission, authorization, license, approval, designation, cancellation, report, recommendation, consultation, etc. related to foreign investment (hereinafter referred to as "permission, etc."), by supporting swift handling of grievances of foreign investors and foreign invested companies, and by establishing a cooperation system among related institutions.

2) When a foreign investment promotion official receives a request for cooperation by a relevant administrative agency, the Investment Support Center or complaint committee with respect to civil petitions concerning foreign investment, he/she shall cooperate in a positive manner.

3) Except as otherwise expressly provided for in paragraphs (1) and (2), matters necessary for the functions and business of the foreign investment promotion office shall be prescribed by Presidential Decree.

**Article 17. Special cases concerning handling civil petitions by foreign investors, etc.**

1) Where a foreign investor or a foreign-capital invested company has been granted permission, etc. in the left column of attached Table 1, he/she or it shall be deemed to have been granted permission, etc. in the right column of the same Table.

2) Any dispatched officer may directly handle civil petitions prescribed by Presidential Decree which are related to foreign investment of a foreign investor or a foreign-capital invested company (hereinafter referred to as "civil petitions to be handled directly"). In such cases, the head of the relevant administrative agency to which the dispatched officer belongs shall entrust the dispatched officer with such civil petitions and give him/her approval authority therefor.

3) A foreign investor or a foreign-capital invested company may request the Investment Support Center to file civil petitions on behalf of him/her or it, such as filling out and submitting application forms relating to civil affairs. The head of the Investment Support Center thus requested shall select civil petitions related to the permission, etc. listed in attached Table 1 (hereinafter referred to as "civil petitions to be handled in bulk") and civil petitions related to foreign investment listed in attached Table 2 to be individually handled (hereinafter referred to as "civil petitions to be handled individually"), and transfer them to the head of the relevant civil affairs administrative agency for disposition, and notify the foreign investment promotion official under his/her jurisdiction.

4) The head of a civil affairs administrative agency to whom an application form relating to civil affairs has been transferred pursuant to paragraph (3), or who has received an application form relating to civil affairs from a foreign investor or a foreign-capital invested company, shall consult with the head of the relevant administrative agency without delay, and the head of the relevant administrative agency shall submit his/her opinion within the period for handling prescribed in paragraph (5). If the head of a relevant administrative agency disagrees, he/she shall explicitly express his/her reasons therefor, and if the head of the relevant administrative agency fails to submit his/her opinion within the period for handling prescribed in paragraph (5), he/she shall be deemed to have no opinion on the matter.

5) Notwithstanding the relevant provisions of other Acts and subordinate statutes, the head of a civil affairs administrative agency or a dispatched officer shall handle civil petitions to be handled in bulk (referring to those civil petitions relating to the permission, etc. listed on the right column of attached Table 1, which have been received individually), civil petitions to be individually handled, and civil petitions to be handled directly, within the period for handling prescribed in Presidential Decree, and where the head of a civil affairs administrative agency or a dispatched officer has not notified the relevant person of his/her rejection of the application for permission, etc. within the period for handling, the permission, etc. shall be deemed granted as of the day immediately following the last day of the period for handling. In such cases, if the head of a civil affairs administrative agency or the dispatched officer intends to reject the application for permission, etc. within the period for handling, he/she shall notify the relevant foreign investment promotion official, foreign investor, or foreign-capital invested company in writing of his/her reasons for rejection, as prescribed by Presidential Decree.

6) Where permission, etc. is deemed granted pursuant to the former part of paragraph (5), the head of a civil affairs administrative agency or a dispatched officer shall issue, upon request of the relevant foreign investor or foreign-capital invested company, a document certifying the grant of the permission, etc. without delay.

7) Where the foreign investor or foreign-capital invested company that was notified of the rejection of his/her or its application for permission pursuant to the latter part of paragraph (5) resolves the issues that are the reasons for the rejection and submits a document certifying that he/she satisfies the conditions for the grant of the permission, etc. as prescribed by the relevant Acts and subordinate statutes, the head of a civil affairs administrative agency or a dispatched officer shall grant the originally intended permission, etc. within the period prescribed by Presidential Decree. In such cases, the head of a civil affairs administrative agency or a dispatched officer shall not refuse to grant the permission,

etc. for any other reason than the ones given before.

8) paragraph (7) shall apply mutatis mutandis to the consultation prescribed in paragraph (4).

9) Where a foreign investor or a foreign-capital invested company intends to obtain permission, etc. relating to civil petitions to be handled in bulk, civil petitions to be handled individually, and civil petitions to be handled directly pursuant to paragraphs (2) through (8), he/she or it shall submit application documents prescribed by Ordinance of the Ministry of Trade, Industry and Energy, notwithstanding the provisions of other Acts and subordinate statutes.

10) Even when some of the requirements for the grant of permission, etc. relating to civil petitions to be handled in bulk, such as accompanying documents, have not been satisfied, the head of a civil affairs administrative agency may grant permission, etc. on the condition that the unsatisfied requirements shall be met, as prescribed by Presidential Decree.

11) Where Acts and subordinate statutes other than this Act stipulates provisions concerning civil affairs which can lead to realization of the goal of a foreign-capital invested company, which is possible only with the permission granted in accordance with the relevant Acts and subordinate statutes from the time when the foreign investment was reported to the time of launching the business, and which do not fall under any of the following subparagraphs, such Acts and subordinate statutes shall not apply to a foreign investor or the foreign investment business of a foreign-capital invested company:

12) [Repealed]

13) Except as otherwise expressly provided for in paragraphs (1) through (11), matters necessary for handling civil petitions relating to foreign investment shall be prescribed by Presidential Decree.

#### **Article 18. Designation and development of foreign investment zones**

1) The Mayors/Do Governors may designate any of the following zones as a foreign investment zone (hereinafter referred to as "foreign investment zone") following deliberation thereon by the Foreign Investment Committee. In such cases, if a foreign investment zone referred to in subparagraph 2 is to be developed into a general industrial complex or urban high-tech complex designated under Article 7 or 7-2 of the Industrial Sites and Development Act, a development plan shall be established in advance:

2) Where two or more foreign investors intend to obtain the designation of a zone referred to in paragraph (1) 2 as a foreign investment zone pursuant to the former part other than the subparagraphs of paragraph (1) from the relevant Mayor/Do Governor, the business classification, the zone, etc. in which such foreign investors intends to make an investment shall satisfy the standards prescribed by Presidential Decree.

3) When a Mayor/Do Governor intends to designate the zones referred to in paragraph (1) 1 through 4 as foreign investment zones pursuant to the former part other than the subparagraphs of paragraph (1), he/she shall establish a designation plan including the following matters and submit it to the Minister of Trade, Industry and Energy:

4) Where a Mayor/Do Governor designates a foreign investment zone pursuant to paragraphs(1) and(2), he/she shall make public announcement of the following matters:

5) A foreign investment zone designated within a national industrial complex among industrial complexes shall be managed by the management agency of the relevant national industrial complex, a foreign investment zone designated within an industrial complex, other than a national industrial complex, shall be managed by the competent Mayor/Do Governor, and a foreign investment zone designated within an area, other than an industrial complex shall be developed and managed by the competent Mayor/Do Governor.

6) Where it is necessary to create a new site to build factories, etc. within an area designated as a foreign investment zone, the foreign investment zone may be developed into a general industrial complex and urban high-tech complex.

7) Where a foreign investment zone is developed into a general industrial complex or urban high-tech complex pursuant to paragraph (6), a foreign investment zone referred to in paragraphs (1) and (2) shall be deemed designated as a general industrial complex or urban high-tech complex. In such cases, the development plan referred to in the latter part other than the subparagraphs of paragraph (1) shall be deemed a development plan pursuant to Articles 7 (2) and 7-2 (4) of the Industrial Sites and Development Act, and the public announcement made under paragraph (4) shall be deemed a public announcement made under Article 7-4 of the Industrial Sites and Development Act.

8) Where designation and public announcement have been made pursuant to paragraphs(1) through(4) with respect to the development of a foreign investment zone into a general industrial complex or urban high-tech complex pursuant to paragraph (6), "industrial complex" referred to in Article 12 (1) of the Industrial Sites and Development Act shall be construed as "foreign investment zone," and "when designation and public announcement of an industrial complex have been made" referred to in Article 22 (2) of the same Act shall be construed as "when designation and public announcement of a foreign investment zone have been made."

9) Article 19 (1) shall not apply where all or a part of a national industrial complex, general industrial complex or urban high-tech complex which has been already developed, is designated as a foreign investment zone.

10) Where a Mayor/Do Governor intends to alter any matter publicly announced pursuant to paragraph (4), he/she shall submit such matter to the Foreign Investment Committee for deliberation: Provided, that this shall not apply to insignificant alterations prescribed by Presidential Decree.

11) Matters necessary for the procedures for, and methods of, the designation of foreign investment zones shall be prescribed by Presidential Decree.

12) Matters necessary for development and management referred to in paragraph (5) shall be prescribed by Presidential Decree.

#### **Article 18.2. Cancellation of designation of foreign investment zones**

1) Where a foreign-capital invested company or a foreign investment zone fails to satisfy the standards prescribed by Presidential Decree under Article 18 (1) and (2), the competent Mayor/Do Governor shall cancel the designation of a foreign investment zone after the deliberation by the Foreign Investment Committee.

2) Matters necessary for the procedures of cancellation of designation of foreign investment zones under paragraph (1) and other matters shall be prescribed by Presidential Decree.

#### **Article 19. Support measures for foreign investment zones**

1) With respect to bearing the costs of the development of a foreign investment zone and providing support for infrastructure, such as harbors, roads, water-supply facilities, railways, communications, and electric facilities, which are necessary for the efficient formation of a foreign investment zone, Articles 28 and 29 of the Industrial Sites and Development Act shall apply mutatis mutandis.

2) The traffic generation charges imposed under Article 36 of the Urban Traffic Improvement Promotion Act shall be exempted for the construction of facilities, etc. in a foreign investment zone.

#### **Article 20. Special cases concerning other acts**

1) Article 56 (1) 4 of the National Land Planning and Utilization Act shall not apply to partitioning of land within a foreign investment zone.

within a foreign investment zone.

2) Restrictions on export or import may be relaxed for a foreign-capital invested company that moves into a foreign investment zone, as prescribed by the Minister of Trade, Industry and Energy, notwithstanding Article 11 of the Foreign Trade Act.

3) The following provisions shall not apply to a foreign-capital invested company that moves into a foreign investment zone:

4) Notwithstanding Article 20 (1) of the Industrial Cluster Development and Factory Establishment Act, a foreign-capital invested company that moves into a foreign investment zone may undertake new establishment, expansion or transfer of factories of at least 500 square meters (including knowledge industry centers) or change business types in growth administration zones.

**Article 21. Follow-up management of foreign investment**

1) In any of the following circumstances, a foreign investor or foreign-capital invested company (including where any of the following circumstances arise to him/her or it due to capital increase) shall file for registration as a foreign-capital invested company, as prescribed by Presidential Decree:

2) Notwithstanding paragraph (1), when a foreign investor or foreign-capital invested company making a foreign investment defined under Article 2 (1) 4 (a) meets requirements prescribed by Presidential Decree, such as the investment amount, he/she or it may file for registration as a foreign-capital invested company even prior to completing payment for the object of investment under paragraph (1) 1 or the acquisition of stocks, etc. under paragraph (1) 2.

3) A foreign investor or foreign-capital invested company shall file for registration of alteration, as prescribed by Ordinance of the Ministry of Trade, Industry and Energy, in any of the following circumstances:

4) Where a foreign investor or foreign-capital invested company falls under any of the following cases, the Minister of Trade, Industry and Energy may revoke permission or cancel the registration thereof: Provided, That in cases falling under subparagraph 2 or 3, he/she must revoke permission or cancel the registration thereof:

5) No foreign-capital invested company registered under paragraph (1) shall engage in any of the following conducts, except in cases meeting the criteria prescribed by Presidential Decree:

6) No foreign investor or foreign-capital invested company shall use investment funds for any purpose other than the reported or permitted purpose reported, or transfer or lend the registration certification of the relevant foreign-capital invested company to any third person.

**Article 22. Cooperation in Follow-Up Management of Foreign Investment**

1) Where a foreign investor or foreign-capital invested company intends to transfer or lend capital goods which he/she or it has introduced into Korea with their customs duties, etc. exempted pursuant to Article 9, or use them for any purpose other than the purpose already reported, he/she or it shall report such fact in advance to the Minister of Trade, Industry and Energy, except in circumstances prescribed by Presidential Decree.

2) Upon receipt of a report filed under paragraph (1), the Minister of Trade, Industry and Energy shall issue a certificate of completion of report to the reporting person without delay.

3) Except in cases meeting the criteria prescribed by Presidential Decree, no registered foreign-capital invested company shall engage in the following conducts:

4) No foreign investor or foreign-capital invested company shall use their investment funds for any purpose other than the purpose already reported or permitted.

**Article 23**

[Repeal]

**Article 24. Collection and compilation of statistics on foreign investment**

1) The Minister of Trade, Industry and Energy may request the Mayors/Do Governors, the president of the Korea Trade-Investment Promotion Agency, and foreign-capital invested companies to provide necessary data and statistics for the analysis of the effects of foreign investment on the national economy in terms of economic growth, balance of international payment, and employment.

2) Upon receipt of a request to provide data and statistics made under paragraph (1), the Mayors/Do Governors, the president of the Korea Trade-Investment Promotion Agency, and foreign-capital invested companies shall comply with the request unless there exists any special ground otherwise.

3) No public officials who collect and compile data and statistics on foreign investment pursuant to paragraphs(1) and (2) shall divulge any trade secret of the relevant companies.

**Article 27. Foreign investment committee**

1) A Foreign Investment Committee shall be established under the Ministry of Trade, Industry and Energy to deliberate on the following:

2) The Minister of Trade, Industry and Energy shall be the Chairperson of the Foreign Investment Committee, and the following persons shall be its members:

3) A Foreign Investment Working Committee (hereinafter referred to as "Working Committee") shall be established to review and coordinate matters to be deliberated upon by the Foreign Investment Committee, and to deliberate on matters entrusted by the Foreign Investment Committee, as prescribed by Presidential Decree.

4) The Minister of Trade, Industry and Energy shall report to the Foreign Investment Committee on the current status of improving an environment for foreign investment referred to in paragraph (1) 2.

5) Except as otherwise expressly provided for in paragraphs (1) through (3), matters necessary for the composition and operation of the Foreign Investment Commission and the Working Committee shall be prescribed by Presidential Decree.

**Article 28. Reporting, investigation, correction, etc.**

1) The Minister of Trade, Industry and Energy and the competent Minister may require foreign investors, foreign-capital invested companies, the president of the Korea Trade-Investment Promotion Agency, the heads of the relevant financial institutions, and other interested parties to report on matters deemed necessary concerning foreign investment under this Act.

2) Where it is deemed necessary for the enforcement of this Act, the Minister of Trade, Industry and Energy may require public officials under his/her jurisdiction or the head of the relevant administrative agency to conduct investigations into the following matters:

3) When an investigation is to be conducted under paragraph (2), the person subject to the investigation shall be notified of the investigation plan which includes the time and date, reason, details, etc. by no later than seven days prior to the investigation: Provided, That this shall not apply where an emergency or the giving of a prior notice can defeat the purpose of an investigation due to destruction of evidence, etc.

4) Anyone who conducts an investigation pursuant to paragraph (2) shall carry a certificate of identification indicating his/her authority and produce it to relevant persons, and deliver a document stating the name, time of access, aim of access, etc. at the time he/she gets access, to relevant persons.

5) In any of the following cases, the Minister of Trade, Industry and Energy may issue a corrective order or take other necessary measures to foreign investors, foreign-capital invested companies, persons who have introduced or used funds or capital goods invested by foreigners into Korea, and other interested parties:

6) In any of the following cases, a foreign investor (including a foreign investor that fails to file for registration under Article 21 (1)) shall transfer the stocks, etc. he/she owns to a national of the Republic of Korea or a Korean corporation within six months from the day prescribed in the following: Provided, That the period for transfer may be extended up to six months with the approval of the Minister of Trade, Industry and Energy in inevitable circumstances:

7) Where a person who has introduced funds and capital goods into Korea for foreign investment fails to clear the capital goods through the customs or fails to take the custody thereof within the storage period prescribed by the Customs Act, the head of the customs office may sell them, as prescribed by Presidential Decree.

**Article 29. Examination and confirmation of introduced capital goods, etc.**

1) Where a foreign investor or a foreign-capital invested company introduces capital goods which meet the criteria prescribed by Presidential Decree, such as capital goods introduced into Korea under this Act which are subject to tax reductions or exemptions, or goods other than capital goods, introduced into Korea for foreign investment falling under Article 2 (1) 4 (c) and (d) (hereinafter referred to as "capital goods, etc." in this Article), the investor or company may receive examination and confirmation of the introduced capital goods, etc. from the competent Minister.

2) Any capital goods, etc. examined and confirmed by the competent Minister in accordance with paragraph (1) shall be deemed to have obtained the import approval under the Foreign Trade Act.

**Article 30. Relations with other acts and international treaties**

#### Article 30. Relations with other acts and international treaties

- 1) Except as otherwise expressly provided for in this Act, matters concerning foreign exchanges and foreign trades shall be governed by the Foreign Exchange Transactions Act.
- 2) Notwithstanding the proviso to Article 462-2 (1) of the Commercial Act, a foreign-capital invested company may pay dividends with its newly issued stocks up to an amount equivalent to its total dividend amount, where a special resolution has been passed under Article 434 of the Commercial Act.
- 3) Where a foreign investor makes an investment in kind with the capital goods defined in Article 2 (1) 8 (b), the certificate of the completion of the investment in kind for which the Commissioner of the Korea Customs Service verified the implementation of the investment in kind and the type, volume, and price of the objects of the investment in kind, shall be deemed a written report of investigation by an investigator under the Article 299 of the Commercial Act, notwithstanding Article 299 of the same Act. The same shall also apply where he/she makes an investment in kind with the capital goods after he/she has established a company.
- 4) Where a technology evaluation agency prescribed by Presidential Decree has evaluated the price of an industrial property right defined in Article 2 (1) 8 (d), such evaluation shall be deemed appraised by an appraiser publicly certified under Article 299-2 of the Commercial Act.
- 5) A national of the Republic of Korea or a Korean corporation that intends to operate a business jointly with a foreign investor who has reported to make a foreign investment by the method prescribed in Article 2 (1) 4 (a) (i) may designate the first day of each month as the re-evaluation day and re-evaluate the objects of the relevant investment, as prescribed in the Assets Revaluation Act, notwithstanding Article 4 of the Assets Revaluation Act.
- 6) Notwithstanding Article 8-2 (4) of the Monopoly Regulation and Fair Trade Act, a second-tier company of a general holding company may hold stocks of a joint stock corporation with a foreigner, if it meets all of the following requirements:

7) Each second-tier company of a general holding company that intends to hold stocks of a joint stock corporation under paragraph (6), shall obtain approval from the Foreign Investment Committee. In such cases, the Minister of Trade, Industry and Energy shall submit the relevant case to the Fair Trade Commission for the prior deliberation of the requirements prescribed by Presidential Decree, including the joint stock corporation's business relevance with the second-tier company and the second-tier company's qualification to become a stakeholder in the joint stock corporation.

8) "General holding company", "second-tier company", and "joint stock corporation" used in paragraphs (6) and (7) have the same meanings defined by the Monopoly Regulation and Fair Trade Act.

9) None of the provisions of this Act shall be construed as amending or limiting any terms and conditions of international treaties the Republic of Korea has entered into and promulgated.

#### **Article 31. Delegation of authority, etc.**

The Minister of Trade, Industry and Energy, the competent ministers, or the Mayors/Do Governors may, as prescribed by Presidential Decree, delegate or entrust part of his/her authority vested under this Act to the Commissioner of the National Tax Service, the Commissioner of the Korea Customs Service, the president of the Korea Trade-Investment Promotion Agency, the heads of management agencies of foreign investment zones, and the heads of any foreign investment-related agencies prescribed by Presidential Decree.

#### **Article 32. Penalty provisions**

Any person who has transferred foreign currency funds illegally to a foreign country on the occasion of overseas remittance or foreign investment under this Act (including the representative in the case of a company) shall be punished by imprisonment with labor for not less than one year, or by a fine equivalent to at least twice but exceeding ten times the amount of the illegal transfer. In such cases, the foreign currency funds illegally transferred shall be confiscated, and if confiscation is not possible, the corresponding value shall be collected in lieu of such confiscation.

#### **Article 33. Penalty provisions**

Any person who fails to file for registration of alternation as prescribed in Article 21 (3) 2 shall be punished by imprisonment with labor for not more than five years, or by a fine not exceeding fifty million won.

#### **Article 34. Penalty provisions**

Any person who has submitted false documents with respect to permission or report under this Act shall be punished by imprisonment for not more than three years or by a fine not exceeding 30 million won.

**Article 35. Penalty provisions**

Any of the following persons (including a representative in cases of a company) shall be punished by imprisonment with labor for not more than one year or a fine not exceeding ten million won:

**Article 36. Joint penalty provisions**

If the representative of a corporation, or an agent, employee or worker of a corporation or individual has committed a violation falling under any of Articles 32 through 35 with reference to the business of the corporation or individual, not only shall the violator but also the corporation or individual be punished by a fine under the relevant provision: Provided, That where the corporation or individual has not neglected appropriate attention and supervision with regard to the business concerned in order to prevent such violation, this provision shall not apply.

**Article 37. Administrative Fines**

1) Any of the following persons shall be subject to an administrative fine of not more than ten million won:

2) Administrative fines referred to in paragraph (1) shall be imposed and collected by the Minister of Trade, Industry and Energy, as prescribed by Presidential Decree.