

Korea, Republic of

ENFORCEMENT DECREE OF THE FOREIGN INVESTMENT PROMOTION ACT (2024)

Official translation

Note

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The year indicated in brackets after the title of the law refers to the year of publication in the Official Gazette or, when this is not available, the year of adoption of the law.

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CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Decree is to prescribe matters mandated by the Foreign Investment Promotion Act and matters necessary for the enforcement thereof.

Article 2 (Definitions of Foreign Investment)

(1) "International economic cooperative organization prescribed by Presidential Decree" in Article 2 (1) 1 of the Foreign Investment Promotion Act (hereinafter referred to as the "Act") means: 1. An agency that conducts foreign economic cooperation affairs on behalf of a foreign government; 2. An international organization that deals with affairs concerning development finance, such as the International Bank for Reconstruction and Development, the International Financial Corporation, and the Asia Development Bank; 3. An international organization that deals with affairs concerning foreign investment, whether for itself or others.

(2) "Foreign investment" under Article 2 (1) 4 (a) of the Act refers to any of the following and the investment amount is at least 100 million won: Provided, That where a business fails to meet the requirements of the main clause of this paragraph due to partial transfer of stocks or shares (hereinafter referred to as "stocks, etc.") or capital reduction, etc. after it has been registered as a foreign-invested company under Article 21 (1) and (2) of the Act, it shall be also deemed a foreign investment: 1. Where a foreigner owns at least 10/100 of the total number of voting stocks issued by, or of the total equity investment of, a Korean corporation or enterprise (in cases of a corporation, including a corporation in the process of incorporation; hereinafter the same shall apply); 2. Where a foreigner who owns stocks, etc. of a Korean corporation or enterprise dispatches or appoints an executive officer (referring to a director, a representative director, a managing general partner, an auditor, or a person in a similar position, who has the authority to participate in decision-making for important management matters; hereinafter the same shall apply) to or at such corporation or company.

(3) "Investment amount" in the main clause, with the exception of the subparagraphs, of paragraph (2) means the acquisition price of stocks, etc. (including where a foreign investor owns stocks as a foreign-invested company capitalizes the earned surplus reserve under Article 458 of the Commercial Act, pursuant to Article 461 of that Act) and, where two or more foreigners make a joint investment, it means an amount invested by each person. In such cases, if a decrease in the amount of stocks, etc. held by a foreign investor is made due to capital reduction without any refund of the foreign-invested company, the investment amount at the time of acquisition of stocks, etc. shall be deemed to remain unchanged.

(4) "Company that has a capital investment relationship prescribed by Presidential Decree" in Article 2 (1) 4 (b) (ii) of the Act means: 1. A company that holds at least 50/100 of the total number of issued stocks, or of the total equity investment of, its overseas parent company; 2. A foreign-invested company that holds at least 50/100 of the total number of issued stocks, or of the total equity investment of which, is held by its overseas parent company, and which is either of the following: (a) Company that holds at least 10/100 of the total number of issued stocks, or of the total equity investment of, its overseas parent company; (b) Company, at least 50/100 of the total number of issued stocks, or of the total equity investment of which, is held by its overseas parent company or a company referred to in subparagraph 1.

(5) "Company that has a capital investment relationship prescribed by Presidential Decree" in Article 2 (1) 4 (b) (iv) of the Act means a company, at least 50/100 of the total number of issued stocks, or of the total equity investment of which, is held by a foreign investor who holds at least 50/100 of the total number of issued stocks, or of the total equity investment of a foreign-invested company.

number of issued stocks, or of the total equity investment of a foreign-invested company.

(6) "Standards prescribed by Presidential Decree" in Article 2 (1) 4 (c) of the Act means where a foreigner contributes at least 50 million won, accounting for at least 10/100 of the total amount of contributions to a nonprofit corporation that meets all of the following requirements: 1. It shall have an independent research facility; 2. It shall meet either of the following requirements: (a) At least five regular workers defined under Article 11 of the Labor Standards Act (hereinafter referred to as "regular worker") with a bachelor's degrees in the fields of science and technology and at least three years' research career, or with a master's or higher degree in the fields of science and technology; (b) Engaging in research and development activities in the fields of natural science or engineering pursuant to the Korean Standard Industrial Classification prepared and publicly notified by the Commissioner of the Statistics Korea under Article 22 of the Statistics Act (hereinafter referred to as "Korean Standard Industrial Classification").

(7) "Purposes prescribed by Presidential Decree, such as the creation or extension of its factory facilities" in Article 2 (1) 4 (d) of the Act means any of the following: 1. Factory facilities (referring to a workplace where the business operator operates any business, other than the manufacturing business under the Korea Standard Industrial Classification; hereinafter the same shall apply) or research facilities are newly established or expanded; 2. Where the relevant company purchases capital goods or research equipment and materials necessary to perform its business.

(8) "Standards prescribed by Presidential Decree" in Article 2 (1) 4 (d) of the Act means where a foreigner contributes at least 50 million won which accounts for at least 10/100 of the total amount of contributions to a nonprofit corporation that is either of the following: 1. A nonprofit corporation that has been established with the purposes of promotion, etc. of science, art, medical services, or education, and continuously performs projects for developing experts in the relevant fields and for expanding international exchanges; 2. Local headquarters of an international organization performing international cooperation projects between civilians or governments.

(9) "Establishments prescribed by Presidential Decree" in Article 2 (1) 7 of the Act means: 1. A foreigners' school established under Article 60-2 of the Elementary and Secondary Education Act; 2. A general hospital, hospital, dental hospital, oriental medical hospital, intermediate care hospital, medical clinic, dental clinic, oriental medical clinic, and midwifery clinic referred to in Article 3 (2) of the Medical Service Act; 3. A pharmacy defined under subparagraph 3 of Article 2 of the Pharmaceutical Affairs Act; 4. Detached housing and multi-family housing referred to in subparagraphs 1 and 2 of attached Table 1 of the Enforcement Decree of the Building Act; 5. Other facilities determined and publicly notified by the Minister of Trade, Industry and Energy following deliberation by the Foreign Investment Committee (hereinafter referred to as the "Foreign Investment Committee") established under Article 27 of the Act, such as a business incubation center for foreign investors.

(10) "Intellectual property rights prescribed by Presidential Decree" in Article 2 (1) 8 (d) of the Act means any rights used in the industrial activities among copyrights registered under the Copyright Act and the layout-design rights defined under subparagraph 5 of Article 2 of the Act on the Layout-Designs of Semiconductor Integrated Circuits.

(11) "Stocks prescribed by Presidential Decree" in Article 2 (1) 8 (g) of the Act means the following: 1. Stocks of foreign corporations listed on foreign securities markets; 2. Stocks owned by foreigners under the Act or the Foreign Exchange Transactions Act.

(12) "Means of domestic payment prescribed by Presidential Decree" in Article 2 (1) 8 (i) of the Act means proceeds from the sale of stocks, etc. and real estate of a Korean corporation or a company run by a national of the Republic of Korea, held by a foreigner pursuant to the Act and the Foreign Exchange Transactions Act.

Article 3 (Definition of Individual Who Holds Permanent Residency in Foreign Country)

"Persons prescribed by Presidential Decree" in Article 2 (2) of the Act means the following persons: 1. A person who has acquired permanent residency in the country where he or she resides; 2. A person who has acquired a resident permit for four or more years in a country without the permanent residency system; 3. A person who has resided for four or more years and acquired a resident permit for one or more year in a country which grants a resident permit for less than four years only without the permanent residency system.

Article 4 (Remittance of Proceeds to Foreign Countries)

(1) Where a foreign investor or a provider of the loan prescribed in Article 2 (1) 4 (b) of the Act intends to remit funds to a foreign country pursuant to Article 3 (1) of the Act, the head of a foreign exchange bank prescribed in the Foreign Exchange Transactions Act (hereinafter referred to as "head of a foreign exchange bank") shall verify the legitimacy of the remittance to a foreign country.

(2) The head of a foreign exchange bank may request cooperation, such as verifying information on the relevant foreign investment, from the Minister of Trade, Industry and Energy, the president of the Korea Trade-Investment Promotion Agency established under the Korea Trade-Investment Promotion Agency Act, or the head of a foreign exchange bank entrusted with business affairs referred to in the

subparagraphs of Article 40 (2) (hereinafter referred to as "head of an entrusted institution"), if necessary to verify the legitimacy of the remittance to a foreign country under paragraph (1).

(3) Upon completion of the remittance to a foreign country prescribed in paragraph (1), the head of a foreign exchange bank shall notify such fact to the Minister of Trade, Industry and Energy or the head of an entrusted institution without delay.

Article 5 (Categories of Businesses with Restricted Foreign Investment)

(1) The types of business in which foreign investment is restricted pursuant to Article 4 (3) of the Act and the details of restrictions shall be as follows:

1. Each of the following publicly notified by the Minister of Trade, Industry and Energy after consultation with the competent Minister, in consideration of the scope of a reservation concerning domestic direct investment by nonresidents set out in Annex 1 (Reservations of the Code of Liberalization of Capital Movements) to the invitation agreements to join the Convention on the Organization for Economic Cooperation and Development for the Republic of Korea, in the Convention on the Organization for Economic Cooperation and Development, and details of a reservation set out in the Annex to the Convention on the Organization for Economic Cooperation and Development concerning bilateral or multilateral investments: (a) A type of business (hereinafter referred to as "restricted type of business") in which foreign investment is not permitted or is partially permitted; (b) The ratio of total foreign investment permitted (hereinafter referred to as "ratio of permissible foreign investment") for each type of business in which foreign investment is partially permitted under item (a); (c) Qualifications of foreign investors and the parties to domestic joint investment; (d) Other standards for permission, such as the timing of permission for foreign investment;

2. Matters determined by the Minister of Trade, Industry and Energy pursuant to Article 5-2 (3) where any of the following foreign investments falling under all of the following cases causes an impediment to the maintenance of national security under Article 4 (2) 1 of the Act (hereinafter referred to as "national security risk"): (a) Where a foreigner intends to acquire de facto control over the management of an existing domestic company by acquiring its stocks, etc.; (b) Any of the following cases where: (i) Manufacturing defense materials defined under subparagraph 7 of Article 3 of the Defense Acquisition Program Act (hereinafter referred to as "defense materials") may be hindered; (ii) Goods, etc. or technologies subject to permission or approval for exportation under Article 19-2 of the Foreign Trade Act are likely to be used for military purposes; (iii) Contents of a contract, etc. classified as a State secret under Article 4 (1) 2 of the National Intelligence Service Act (hereinafter referred to as "State secret") are likely to be disclosed; (iv) International efforts of the United Nations, etc. to maintain international peace and security may be substantially and critically hindered; (v) The divulgence of the national core technology defined in subparagraph 2 of Article 2 of the Act on Prevention of Divulgence and Protection of Industrial Technology is highly likely; (iv) A national high-tech strategic technology defined in subparagraph 1 of Article 2 of the Act on Special Measures for Strengthening and Protection of Competitiveness of National High-Tech Strategic Industry is highly likely to be leaked;

(2) Notwithstanding paragraph (1) 1, a foreigner may make an investment in a company, of which turnover ratio of a restricted type of business, does not exceed 1/100 of the total turnover, with no restriction prescribed in paragraph (1) 1.

(3) Where the turnover ratio of a restricted type of business of a company falling under paragraph (2) has exceeded 1/100 of the total turnover of the company after a foreigner acquired stocks, etc. of the company, the stocks, etc. acquired in excess of the ratio of permissible foreign investment shall be transferred to a national of the Republic of Korea or a Korean corporation within six months from the settlement date of final accounts of the business year in which such ratio is exceeded: Provided, That the period of transfer may be extended up to six months with the approval of the Minister of Trade, Industry and Energy in inevitable circumstances.

(4) No foreigner shall make an investment in any company concurrently running both a category of business in which foreign investment is not permitted and a category of business in which foreign investment is partially permitted under paragraph (1) 1 (a), and where intending to make an investment in any company running at least two categories of business in which foreign investment is partially permitted under paragraph (1) 1 (a), he or she is prohibited from making an investment in the company in excess of the ratio of foreign investment in the category of business in which the ratio of permissible foreign investment is lowest.

(5) - (10) Deleted

(11) Where any details of restrictions on foreign investment publicly announced by the Minister of Trade, Industry and Energy in the preceding year under Article 4 (4) of the Act are modified or added, the head of a relevant administrative agency shall compile such modifications or additions as at January 1 and notify the Minister of Trade, Industry and Energy thereof by the end of January, and the Minister of Trade, Industry and Energy shall compile and publicly announce them by the last day of February each year.

Article 5-2 (Determination on Whether Foreign Investment Constitutes National Security Risk)

(1) Before filing a report on foreign investment under Article 5 (1) through (3) of the Act, a foreigner may request the competent Minister or the Minister of Trade, Industry and Energy to verify whether the relevant foreign investment falls under all items of Article 5 (1) 2 by satisfying the matters determined and publicly notified by the Minister of Trade, Industry and Energy. In such cases, upon receipt of a request for verification, the competent Minister shall, without delay, request the Minister of Trade, Industry and Energy to verify whether the relevant foreign investment falls under the items of Article 5 (1) 2.

(2) If the Minister of Trade, Industry and Energy receives a request for verification under paragraph (1) (including where the Minister of Trade, Industry and Energy receives a request for verification from the competent Minister pursuant to the latter part of that paragraph), he or she shall notify the relevant foreigner of whether the relevant foreign investment falls under all items of Article 5 (1) 2 within 30 days from the date he or she requests verification to the competent Minister or the Minister of Trade, Industry and Energy: Provided, That if the Minister of Trade, Industry and Energy requests the foreigner to complement data for verification, the period required to complement the relevant data shall not be included in the period prescribed in the main clause.

(3) In any of the following cases, the Minister of Trade, Industry and Energy shall determine whether it constitutes a national security risk, subject to deliberation by the Foreign Investment Committee; in such cases, he or she shall undergo prior review by the expert committee under Article 34-2 (1) (hereinafter referred to as the "expert committee") before deliberation by the Foreign Investment Committee: 1. Where a foreigner reports that the relevant foreign investment falls under all items of Article 5 (1) 2; 2. Any of the following cases, other than those referred to in subparagraph 1: (a) Where the competent Minister or the Director of the National Intelligence Service makes a request to examine whether it constitutes a national security risk; (b) Where the Minister of Trade, Industry and Energy deems it necessary.

(4) The expert committee shall report the results thereof to the Foreign Investment Committee within 90 days from the date of receipt of a request for prior review without delay under the latter part, with the exception of the subparagraphs, of paragraph (3): Provided, That in unavoidable circumstances, the period may be extended only once by up to 30 days.

(5) The Minister of Trade, Industry and Energy shall determine whether the relevant foreign investment constitutes a national security risk within 45 days from the date on which the results of the preliminary examination are reported pursuant to paragraph (4) following deliberation by the Foreign Investment Committee. In such cases, if the Minister of Trade, Industry and Energy deems it necessary, he or she may determine to permit foreign investment following deliberation by the Foreign Investment Committee, attaching conditions, such as separate sale of a particular business part or compliance with security maintenance, etc.

(6) Upon making a determination under paragraph (5), the Minister of Trade, Industry and Energy shall, without delay, give notice to the relevant foreigner that he or she disallows or permits the relevant foreigner to acquire stocks, etc., specifying the following matters: 1. Whether such foreign investment constitutes a threat to national security; 2. Grounds for such determination; 3. Details of conditions (only applicable where conditions are attached pursuant to the latter part of paragraph (5)).

(7) If the Minister of Trade, Industry and Energy has made a determination under the former part of paragraph (5) that a foreign investment constitutes a threat to national security, the relevant foreigner who has already acquired stocks, etc. of companies with the foreign investment shall transfer such stocks, etc. to a national of the Republic of Korea, a Korean Corporation, or a foreigner who poses no threat to national security (hereinafter referred to as "Korean national, etc.") within six months from the date of such determination; where the Minister has made a determination on conditional approval for investment pursuant to the latter part of paragraph (5), the relevant foreigner shall transfer such stocks, etc. to a Korean national, etc. within six month from the date the Minister becomes aware of a violation of the relevant conditions: Provided, That the period of such transfer may be extended up to one year with the approval of the Minister of Trade, Industry and Energy in inevitable circumstances.

(8) If 3 years have elapsed from the date on which the Minister of Trade, Industry and Energy gives the following notification, the Minister of Trade, Industry and Energy may not deliberate on or determine whether the foreign investment constitutes a national security risk under paragraph (3): Provided, That this shall not apply where the Minister of Trade, Industry and Energy deems it necessary to conduct deliberation or make a determination again under paragraph (3) due to significant changes in circumstances after the following notification is made: 1. Where it is notified pursuant to paragraph (2) that the relevant foreign investment does not fall under any item of Article 5 (1) 2; 2. Where it is notified that the relevant foreigner is permitted to acquire stocks, etc. pursuant to paragraph (6).

(9) If the Minister of Trade, Industry and Energy deems it necessary for verification under the main clause of paragraph (2) and deliberation and determination under paragraph (3), he or she may request the heads of relevant administrative agencies and the Director of the National Intelligence Service to report or submit the details or data investigated in connection with whether a foreign investment

report or submit the details of data investigated in connection with whether a foreign investment constitutes a national security risk, and may request the President of the Korea Trade-Investment Promotion Agency and the heads of relevant public institutions to verify facts necessary for determining whether a foreign investment constitutes a national security risk.

(10) If a foreign investment is approved following deliberation under other statutes and regulations, the Minister of Trade, Industry and Energy may omit the procedures for deliberation and determination under paragraph (3) [limited to cases falling under Article 5 (1) 2 (b) (v) or (vi)].

(11) Except as provided in paragraphs (1) through (10), details necessary for the procedures, methods, etc. for deliberation and determination on whether a foreign investment constitutes a national security risk under paragraph (3) shall be determined by the Minister of Trade, Industry and Energy.

Article 5-3 (Request for Data Necessary for Formulation of Policy Measures to Stimulate Foreign Investment)

"The heads of relevant financial institutions prescribed by Presidential Decree" in Article 4-2 (5) of the Act means the heads of financial institutions (limited to requests for data constituting the details determined by Minister of Trade, Industry and Energy in prior consultation with the Minister of Economy and Finance or the Chairperson of the Financial Services Commission) determined by the Governor of the Bank of Korea (limited to requests for data on the current status of receipt of remuneration for supply of technology by kind) and the Minister of Trade, Industry and Energy after consultation with the Minister of Economy and Finance or the Chairperson of the Financial Services Commission.

CHAPTER II PROCEDURES FOR FOREIGN INVESTMENT

Article 6 (Reporting on Foreign Investment)

(1) "Specially related persons prescribed by Presidential Decree" in Article 5 (1) and the former part of Article 6 (1) of the Act means any of the following persons: 1. Spouse and lineal ascendants and descendants of the relevant foreigner (including lineal ascendants and descendants of the spouse of the relevant foreigner); 2. A foreign corporation where the relevant foreigner and persons in such relationship as prescribed in subparagraph 1 or 3 together hold at least 50/100 of the total number of issued stocks or the total equity investment, or a foreign corporation virtually controlled by the relevant foreigner and said persons; 3. Employees of the relevant foreigner and persons prescribed in subparagraph 2 or 4 (referring to executive officers in the case of a corporation; in the case of an individual, they shall refer to trade employees, other employed persons through an employment contract, or persons who maintain their livelihood by means of money or property of the individual); 4. A foreign corporation where such a corporation prescribed in subparagraph 2, the relevant foreigner, and persons prescribed in subparagraphs 1 and 3 together hold at least 50/100 of the total number of issued stocks or the total equity investment.

(2) Where a report on modification filed under Article 5 (3) of the Act contains matters concerning early redemption of loans, the Minister of Trade, Industry and Energy shall, without delay, notify the details of such report to the Commissioner of the National Tax Service, the Commissioner of the Korea Customs Service, the Special Metropolitan City Mayor, Metropolitan City Mayors, the Special Self-Governing City Mayor, Do Governors, and the Special Self-Governing Province Governor (hereinafter referred to as "Mayor/Do Governor"). In such cases, the Mayors/Do Governors shall, without delay, notify the head of the agency that manages the relevant foreign investment zone of the details, as prescribed in Article 18-3 (1) of the Act.

Article 7 (Permission of Foreign Investment)

(1) "Defense industry company prescribed by Presidential Decree" in Article 6 (1) of the Act means a defense industry company defined under subparagraph 9 of Article 3 of the Defense Acquisition Program Act.

(2) The processing period for determining whether to grant permission pursuant to Article 6 (2) of the Act shall be 15 days from the date of receiving an application for permission: Provided, That such processing period may be extended by up to 15 days only on one occasion in inevitable circumstances.

(3) Where the Minister of Trade, Industry and Energy deems that an application for permission for foreign investment filed under Article 6 (1) of the Act needs supplementing or correcting, he or she may require the relevant applicant to supplement or correct the application within a prescribed period for such supplement or correction. In such cases, the period spent for supplementing or correcting any information on the application shall be disregarded for the purpose of calculating the processing period referred to paragraph (2).

(4) The Minister of Trade, Industry and Energy shall request the Minister of National Defense to consult on an application for permission for foreign investment under Article 6 (1) of the Act pursuant to paragraph (3) of that Article, and the Minister of National Defense in receipt of such request for consultation shall present his or her opinions on the application to the Minister of Trade, Industry and Energy within 10 days of receipt of such request.

(5) Where the Minister of National Defense in receipt of the request pursuant to paragraph (4) deems that defense materials produced by a defense industry company applied for permission are replaceable

by products of other domestic companies or that granting permission will not significantly affect national security, he or she shall consent to granting of such permission.

(6) In presenting his or her opinions under paragraph (4), the Minister of National Defense may request that the Minister of Trade, Industry and Energy grant permission on either of the following conditions: 1. Conditions necessary for continuous production of the relevant defense materials and for the maintenance of security; 2. The condition of dividing and selling defense industry facilities defined under subparagraph 11 of Article 3 of the Defense Acquisition Program Act (hereinafter referred to as "defense industry facilities") to a national of the Republic of Korea or a Korean corporation.

(7) Where permission is granted on the condition prescribed in paragraph (6) 2, a foreigner who has acquired the stocks, etc. before the sale of the defense industry facilities completes shall not participate in the management of the relevant defense industry company.

(8) Pursuant to Article 6 (6) of the Act, the Minister of Trade, Industry and Energy shall order a person who has acquired stocks, etc. in violation of Article 6 (1) or (4) of the Act to transfer such stocks, etc. to a national of the Republic of Korea or a Korean corporation within one month from the date he or she becomes aware of the violation. In such cases, the period for transfer shall be determined by the Minister of Trade, Industry and Energy within six months and such period may be extended by up to six months where it is acknowledged that inevitable circumstances exist.

Article 8 Deleted.

CHAPTER III MEASURES FOR SUPPORTING FOREIGN INVESTMENT

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CHAPTER IV FOREIGN INVESTMENT ZONES [...]

CHAPTER V FOLLOW-UP MANAGEMENT OF FOREIGN INVESTMENT

[...]

CHAPTER VI DELETED.

CHAPTER VII SUPPLEMENTARY PROVISIONS

Article 34 (Operation of Foreign Investment Committee)

(1) Deleted.

(2) The Chairperson of the Foreign Investment Committee shall exercise general control over various business affairs of the Committee, represent the Committee, and call and preside over meetings of the Committee. Where the Chairperson is unable to perform his or her duties for any inevitable reason, a member of the Committee designated by the Chairperson shall perform such duties on behalf of the Chairperson.

(3) The president of the Korea Trade-Investment Promotion Agency, the foreign investment ombudsman, and the project managers may attend the meetings of the Committee and state their opinions.

(4) Meetings of the Committee shall be held with the attendance of a majority of the members who are entitled to participate in said meetings, and resolutions shall be passed with the affirmative vote of a majority of those present.

(5) The Committee may require relevant persons to state their opinions, if deemed necessary.

(6) Where the Chairperson call a meeting of the Committee, he or she shall notify each member of the Committee of the date and time, place, and purpose of the meeting by no later than three days before the beginning of such meeting: Provided, That this shall not apply in an emergency.

(7) A secretary shall be assigned to the Committee to handle its administrative affairs, and the secretary shall be appointed by the Minister of Trade, Industry and Energy from among public officials belonging to the Ministry of Trade, Industry and Energy.

Article 34-2 (Composition and Operation of Expert Committees)

(1) An expert committee shall be established under the Foreign Investment Committee to efficiently deliberate on whether a foreign investment constitutes a national security risk.

(2) The expert committee shall be comprised of up to 20 members, including the chairperson, and the chairperson of the expert committee shall be appointed by the Minister of Trade, Industry and Energy from among public officials in general service belonging to the Senior Executive Service of the Ministry of Trade, Industry and Energy.

(3) The members of the expert committee shall be the following persons: 1. Persons appointed by the head of the relevant agency from among members in general service of the Senior Executive Service of the Ministry of Economy and Finance, the Ministry of Foreign Affairs, the Ministry of National Defense, and the Financial Services Commission; 2. Persons appointed by the head of the relevant agency from among employees of the National Intelligence Service, the Korea Trade-Investment Promotion Agency, and the Korean Security Agency of Trade and Industry under Article 25 of the Foreign Trade Act; 3. Persons commissioned by the Chairperson of the Foreign Investment Committee from among persons

with extensive knowledge of and experience in national defense, industrial technology, supply chains, security, statutes, etc.; 4. Other persons commissioned by the Chairperson of the Foreign Investment Committee upon the recommendation of the head of the relevant administrative agency or public institution, from among the employees of the relevant administrative agency or public institution.

(4) Except as provided in paragraphs (1) through (3), matters necessary for the organization and operation of the expert committee shall be determined by the Chairperson of the Foreign Investment Committee, subject to resolution by the Foreign Investment Committee.

Article 35 (Establishment and Operation of Foreign Investment Working Committee)

(1) Matters entrusted to a Foreign Investment Working Committee (hereinafter referred to as "Working Committee") by the Foreign Investment Committee pursuant to Article 27 (3) of the Act are as follows:

1. Matters regarding the recognition of foreign investment under Article 2 (1) 4 (d) of the Act;
2. Matters regarding the alteration of designation of a foreign investment zone under Article 18 (5) of the Act and the cancellation of designation of a foreign investment zone under Article 18-2 (1) of the Act;
3. Matters regarding the establishment and operation of the Investment Support Center under Article 21 (8);
4. Matters regarding the establishment and operation of the grievance committee under Article 21-4 (8);
5. Other matters deemed necessary following deliberation by the Committee.

(2) The Minister for Trade shall be the Chairperson of the Working Committee, and the following persons shall be the members thereof:

1. A person designated, upon the request of the Minister of Trade, Industry and Energy, by a relevant Minister from among public officials in general service who are members of the Senior Executive Service in the Ministry of Trade, Industry and Energy or any other relevant Ministry;
2. A Vice-Mayor or Vice-Governor of a relevant City/Do (in the case of Seoul Special Metropolitan City, referring to a person designated by the Mayor, from among public officials of Grade I in the Metropolitan Government) and a person commissioned by the Chairperson from among those with abundant experience and knowledge in the field of foreign investment;
3. The head of the Investment Support Center and the foreign investment ombudsman.

(3) A secretary shall be assigned to the Working Committee to handle its administrative affairs, and the secretary shall be appointed by the Minister of Trade, Industry and Energy from among the public officials belonging to the Ministry of Trade, Industry and Energy.

(4) The Committee shall establish, under the jurisdiction of the Working Committee, a Foreign Investment Inducement Subcommittee with a member of the Working Committee belonging to the Ministry of Trade, Industry and Energy as its Chairperson, for the integration and management of foreign investment inducement, the encouragement and inspection of the settlement of civil petitions concerning foreign investment, and the review of the agenda of the Working Committee concerning foreign investment inducement activities.

(5) Except as provided in this Decree, matters necessary for the operation of the Committee, the Working Committee, and the Subcommittee shall be determined by the Chairperson of the Committee following a resolution by the Committee.

Article 36 (Reporting on Data on Current Status of Foreign Investment)

(1) The Governor of the Bank of Korea shall integrate the current status of the outflow and inflow of foreign investment funds each month, and shall report it to the Minister of Trade, Industry and Energy by the 10th of the following month.

(2) The Minister of Trade, Industry and Energy shall compile data on the current status of foreign investment and foreign-invested companies on a regular basis and forward such data to agencies related to foreign investment inducement.

Article 37 (Disposal of Capital Goods)

(1) Where the head of any customs office intends to sell capital goods pursuant to Article 28 (7) of the Act, he or she shall submit a list of the capital goods for sale to the Minister of Trade, Industry and Energy via the Commissioner of the Korea Customs Service.

(2) The Minister of Trade, Industry and Energy may request the head of the relevant customs office to postpone the sale of capital goods under paragraph (1) after consulting with the head of the relevant agency. In such cases, a request to the head of a customs office shall be made within 20 days of receipt of a list of the capital goods to be sold.

(3) Where no request for postponement is made within the period prescribed in the latter part of paragraph (2), the head of the relevant customs office shall sell the relevant capital goods and report thereon to the Minister of Trade, Industry and Energy.

Article 38 (Examination and Confirmation of Introduced Capital Goods)

(1) "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 exemption" in Article 29 (1) of the Act means any of the following:

1. Capital goods subject to exemption from customs duties, individual consumption tax, and value-added tax pursuant to Article 121-3 (1) of the Act on Restriction on Special Cases concerning Taxation;
2. Capital goods introduced into the Republic of Korea by a foreign investor as an object of investment (including contributions; hereafter in this Article the same

foreign investor as an object of investment (including contributions, hereafter in this Article the same shall apply); 3. Capital goods introduced into the Republic of Korea by a foreign-invested company using a means of international payment with investment made by a foreign investor or a means of domestic payment obtained from the exchange of the means of international payment, among the goods designated and publicly notified by the Minister of Trade, Industry and Energy pursuant to Article 11 (1) of the Foreign Trade Act.

(2) Any person who intends to introduce into the Republic of Korea capital goods prescribed in the subparagraphs of paragraph (1) and goods, other than the capital goods introduced for the foreign investment as defined in Article 2 (1) 4 (c) and (d) of the Act (referred to as "capital goods, etc." hereafter in this paragraph), shall prepare a written specification of the goods, etc. to be introduced, which states their quantities, standard sizes, prices and manufacturers, and apply for the examination and confirmation thereof to the competent Minister before their import declarations are accepted under Article 241 (1) of the Customs Act.

(3) Notwithstanding paragraph (2), if either of the following events occurs, a person may apply for the examination and confirmation of a written specification of capital goods, etc. within the time frame classified below: 1. Where the person pays customs duties pursuant to Article 39 (2) of the Customs Act: Within five days from the date of receipt of the relevant notice of payment; 2. Where the capital goods, etc. are not shipped out from the bonded area: Within 15 days from the acceptance of the relevant import declarations.

Article 39 (Confirmation of Completion of Investment in Kind)

(1) Where the Commissioner of the Korea Customs Service has confirmed the completion of the investment in kind in accordance with Article 30 (3) of the Act, he or she shall, without delay, notify the Governor of the Bank of Korea.

(2) "Technology evaluation agency prescribed by Presidential Decree" in Article 30 (4) of the Act means any evaluation agency referred to in the subparagraphs of Article 4 of the Enforcement Decree of the Special Act on the Promotion of Venture Businesses.

Article 39-2 (Prior Deliberation on Second-Tier Company's Holding Stocks of Joint Stock Corporation)

The requirements subject to prior deliberation by the Fair Trade Commission under the latter part of Article 30 (7) of the Act shall be as follows: 1. The company seeking to hold stocks of a joint stock corporation with a foreigner under Article 30 (6) of the Act shall correspond to a second-tier company (referring to a second-tier company defined in subparagraph 9 of Article 2 of the Monopoly Regulation and Fair Trade Act: hereafter in this Article the same shall apply) of a general holding company defined in Article 18 (2) 5 of the Monopoly Regulation and Fair Trade Act (hereafter in this Article referred to as "general holding company"); 2. The corporation that has issued shares a second-tier company of a general holding company intends to hold with a foreigner pursuant to Article 30 (6) of the Act shall correspond to a joint stock corporation under Article 18 (1) 1 of the Monopoly Regulation and Fair Trade Act; 3. The business that a joint stock corporation under Article 30 (6) of the Act intends to carry out shall have any kind of business relevance described below with the business of a second-tier company that has control over its business contents: (a) The business shall be of making or selling products or services with products or services of the second-tier company as its major production elements; (b) The business shall be of providing raw materials, services, or other production elements required by the second-tier company; (c) The business shall be of conducting research and development concerning raw materials or services produced by the second-tier company; (d) The business shall be of making or selling products or services identical, or sharing most of the production technology, with the products or services produced by the second-tier company; (e) The business shall otherwise have close relevance with the business contents of the second-tier company; 4. The business that a joint stock corporation under Article 30 (6) of the Act intends to carry out shall have more relevance with the business of a second-tier company than with the business of a subsidiary (referring to a subsidiary defined in subparagraph 8 of Article 2 of the Monopoly Regulation and Fair Trade Act) of a general holding company, so that the second-tier company is qualified to become a stakeholder in the joint stock corporation; 5. If a joint stock corporation becomes a third-tier company of a general holding company pursuant to Article 30 (6) of the Act, a plan to dispose of all the stocks of the domestic affiliates (referring to affiliates defined in subparagraph 12 of Article 2 of the Monopoly Regulation and Fair Trade Act) owned by such joint stock corporation shall be submitted to the Fair Trade Commission by the date preceding the date of commencement of prior deliberation thereby under the latter part of Article 30 (7) of the Act.

Article 39-3 (Re-Examination of Regulation)

(1) The Minister of Trade, Industry and Energy shall examine the feasibility of the requirements subject to prior deliberation specified in Article 39-2 every three years, beginning on January 1, 2014 (meaning until the date before January 1 of every third year) and shall take measures, such as making improvements.

(2) The Minister of Trade, Industry and Energy shall examine the appropriateness of the following

matters every two years counting from each base date specified in the following (referring to the period that ends on the day before the base date of every second year) and shall take necessary measures, such as making improvements: 1. Deleted; 2. Scope of the service businesses that can be designated as a foreign investment zone under Article 25 (3): January 1, 2015; 3. Standards and procedures for cancellation of designation of foreign investment zones under Article 26: January 1, 2015; 4-8. Deleted (3) Deleted.

Article 40 (Delegation or Entrustment of Authority)

(1) Pursuant to Article 31 of the Act, the Minister of Trade, Industry and Energy shall delegate or entrust his or her authority as classified below: 1. Deleted; 2. Authority prescribed in Article 28 (2) of the Act concerning investigations as to whether Article 21 (3) 2 of the Act has been violated shall be delegated to the Commissioner of the Korea Customs Service; 3. Authority prescribed in Article 28 (2) of the Act concerning investigations as to whether Article 21 (5) and (6) of the Act have been violated shall be delegated to the Commissioner of the National Tax Service; 4. Authority prescribed in Article 28 of the Act, other than those prescribed in subparagraphs 2 and 3 above, concerning the investigations into the status of implementing the terms of permission for, or details of reports by foreigners, foreign investors, and foreign-invested companies, and corrective orders therefor shall be delegated or entrusted to the competent Minister, the Commissioner of the National Tax Service, or the Commissioner of the Korea Customs Service according to their jurisdictions.

(2) Pursuant to Article 31 of the Act, the Minister of Trade, Industry and Energy shall entrust his or her authority over the following affairs to the president of the Korea Trade-Investment Promotion Agency (including the heads of the trade-centers, branches, and offices designated by the president of the Korea Trade-Investment Promotion Agency; hereinafter the same shall apply) and the head of a foreign exchange bank (including the heads of such branches of the foreign exchange bank as designated by the head of the foreign exchange bank; hereinafter the same shall apply): 1. Receipt of reports on, and modifications to, foreign investment and the issuance of certificates of completion of reports under Article 5 of the Act; 2. Registration, and registration of alteration, of foreign-invested companies under Article 21 (1) through (3) of the Act; 3. Verification of grounds for cancellation of registration of foreign-invested companies under Article 21 (4) of the Act; 4. Notification of details of applications for registration of alteration under Article 22 (1) of the Act; 5. Notification or public announcement of cancellation of registration under Article 28 (2) and (3) to foreign-invested companies and the Commissioner of the National Tax Service.

(3) The competent Minister shall entrust business matters concerning the examination and confirmation under Article 38 (2) to the head of a foreign exchange bank and the president of the Korea Trade-Investment Promotion Agency.

(4) Pursuant to Article 31 of the Act, a Mayor/Do Governor may delegate the management affairs of foreign investment zones under Article 18-3 (1) of the Act to the Korea Industrial Complex Corporation established under Article 45-17 of the Industrial Cluster Development and Factory Establishment Act. In such cases, the Mayor/Do Governor may determine details necessary for performing such entrusted affairs.

(5) People who have been delegated or entrusted under paragraphs (1) and (2) shall notify, or report on, the results of performing such delegated or entrusted affairs to the Minister of Trade, Industry and Energy; persons who have been entrusted under paragraph (3) to the competent Minister; and persons who have been entrusted under paragraph (4) to the competent Mayor/Do Governor.

(6) The Minister of Trade, Industry and Energy may determine details necessary for performing affairs delegated or entrusted under paragraphs (1) through (3).

CHAPTER VIII ADMINISTRATIVE FINES [...]