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Investment Guarantees and Privileges in the Kyrgyz Republic: Legal Aspects

**Kyrgyz-Japanese Business Forum
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Legal Framework:

- Bilateral treaties on mutual support, encouragement and protection of investment (26+ countries)
- Law on Investments in the Kyrgyz Republic dated March 27, 2003
- Bilateral treaties on avoidance of the double taxation
- International treaties to which the Kyrgyz Republic is a party (WTO, Energy Charter)

Investment Guarantees:

- National treatment
- Non-discrimination
- Export and repatriation of investment proceeds in any form
- Protection from expropriation of investments and its proceeds
- Non-interference into the business activities of investors
- Restitution of infringed rights of investors

Repatriation of proceeds of investments:

- Right to export or repatriation of profit gained on investment, proceeds of investment activities in the Kyrgyz Republic
- Right to freely use the income derived from investors' activities in the Kyrgyz Republic
- No statutory requirement to re-invest investment proceeds in the Kyrgyz Republic

Protection from expropriation:

- Protection against expropriation, including nationalization, requisition, or other equivalent measures
- Nationalization is permitted only in exceptional cases involving public interest, provided that the Parliament adopts a law on nationalization and investor receives timely and corresponding payment for damages, including lost profit caused by nationalization

Encouragements of investments:

- Stabilization of legislation
- Possibility of execution of investment agreement with the Government on special terms
- Freedom of monetary transactions (free conversion of currency, unbound and unrestricted money transfers)
- Possibility of execution of a unique taxation contract which provide a special tax regime

Stabilization of legislation:

Right of the investor to choose within 10 years from the beginning of the investment activity (or within the term specified in the Investment Agreement) conditions most favorable for the investor, should investment and customs legislation of the Kyrgyz Republic be amended.

Investment Dispute Resolution:

- ☑ Kyrgyz legislation grants to investors a right to refer to alternative dispute resolution mechanism, particularly refer investment disputes to local or international arbitral tribunals.
- ☑ Among other, the Kyrgyz Republic is a party to the New York Convention on recognition and enforcement of foreign arbitral awards.
- ☑ Investment Agreements with the Government of the Kyrgyz Republic can be governed by foreign laws, such as English or Japanese laws and depend on the negotiations between the investor and the Kyrgyz Republic.

Commonly referred international arbitration rules and tribunals:

- Arbitration under UNCITRAL Rules (ad hoc basis).
- Arbitration Institute of the Stockholm Chamber of Commerce
- London Court of International Arbitration
- International Court of Arbitration in Bishkek, Kyrgyz Republic (ICA)
- Other

Foreigners' Rights in the Kyrgyz Republic

- Equal rights and obligations
- Right of employment
- Free movement
- Property rights
- Non-visa regime for Japanese citizens
- Right to conduct freely entrepreneurial activities

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Thank you for your attention!

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