

1974 AGREEMENT BETWEEN JAPAN AND THE REPUBLIC OF KOREA CONCERNING JOINT DEVELOPMENT OF THE SOUTHERN PART OF THE CONTINENTAL SHELF ADJACENT TO THE TWO COUNTRIES

Adopted in Seoul, South Korea on 30 January 1974

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JAPAN AND THE REPUBLIC OF KOREA,

DESIRING to promote the friendly relations existing between the two countries,

CONSIDERING their mutual interest in carrying out jointly exploration and exploitation of petroleum resources in the southern part of the continental shelf adjacent to the two countries,

RESOLVING to reach a final practical solution to the question of the development of such resources,

HAVE AGREED as follows:

ARTICLE I

For the purposes of this Agreement

- (1) The term "natural resources" means petroleum (including natural gas) resources and other underground minerals which are produced in association with such resources;
- (2) The term "concessionaire" means a person authorized by either Party under the laws and regulations of that Party to explore and/or exploit natural resources in the Joint Development Zone;
- (3) The term "concessionaires of both Parties" means a concessionaire of one Party and a concessionaire of the other Party respectively authorized with respect to the same subzone of the Joint Development Zone;
- (4) The term "operating agreement" means a contract concluded between concessionaires of both Parties for the purpose of exploring and exploiting natural resources in the Joint Development Zone;
- (5) The term "operator" means a concessionaire designated and acting as such under the operating agreement with respect to a subzone of the Joint Development Zone.

ARTICLE II

1. The Joint Development Zone shall be the area of the continental shelf bounded by straight lines connecting the following points in the sequence given below:

Point 1 32°57.0' N 127°41.1' E

Point 2 32°53.4' N 127°36.3' E

Point 3 32°46.2' N 127°27.8' E

Point 4 32°33.6' N 127°13.1' E

Point 5 32°10.5' N 126°51.5' E

Point 6 30°46.2' N 125°55.5' E

Point 7 30°33.3' N 126°00.8' E

Point 8 30°18.2' N 126°05.5' E

Point 9 28°36.0' N 127°38.0' E

Point 10 29°19.0' N 128°00.0' E

Point 11 29°43.0' N 128°38.0' E

Point 12 30°19.0' N 129°09.0' E

Point 13 30°54.0' N 129°04.0' E

Point 14 31°13.0' N 128°50.0' E

Point 15 31°47.0' N 128°50.0' E

Point 16 31°47.0' N 128°14.0' E

Point 17 32°12.0' N 127°50.0' E

Point 18 32°27.0' N 127°56.0' E

Point 19 32°27.0' N 128°18.0' E

Point 20 32°57.0' N 128°18.0' E

Point 1 32°57.0' N 127°41.1' E

2. The straight lines bounding the Joint Development Zone are shown on the map annexed to this Agreement.

ARTICLE III

1. The Joint Development Zone may be divided into subzones, each of which shall be explored and exploited by concessionaires of both Parties.
2. Each subzone shall be numbered and defined by reference to geographical coordinates in the appendix to this Agreement. The appendix may be amended by mutual consent of the Parties without modification of this Agreement.

ARTICLE IV

1. Each Party shall authorize one or more concessionaires with respect to each subzone within three months after the date of entry into force of this Agreement. When one Party authorizes more than one concessionaire with respect to one subzone, all such concessionaires shall have an undivided interest and shall be represented, for the purposes of this Agreement, by one concessionaire. In case of any change in concessionaire or in subzone, the Party concerned shall authorize one or more new concessionaires as soon as possible.

2. Each Party shall notify the other Party of its concessionaire or concessionaires without delay.

ARTICLE V

1. Concessionaires of both Parties shall enter into an operating agreement to carry out jointly exploration and exploitation of natural resources in the Joint Development Zone. Such operating agreement shall provide, inter alia, for the following:
 - (a) Details relating to the sharing of natural resources and expenses in accordance with article IX;
 - (b) Designation of operator;
 - (c) Treatment of sole risk operations;
 - (d) Adjustment of fisheries interests;
 - (e) Settlement of disputes.
2. The operating agreement and modifications thereof shall enter into force upon approval by the Parties. Approval of the Parties shall be deemed to have been given unless either Party explicitly disapproves the operating agreement or modifications thereof within two months after such operating agreement or modifications thereof have been submitted to the Parties for approval.
3. The Parties shall endeavour to ensure that the operating agreement enter into force within six months after concessionaires of both Parties have been authorized under paragraph 1 of article IV.

ARTICLE VI

1. The operator shall be designated by agreement between concessionaires of both Parties. If concessionaires of both Parties fail to reach agreement between themselves as to the designation of the operator within three months after such concessionaires have been authorized, the Parties shall hold consultations concerning the designation of the operator. If the operator is not designated within two months after such consultations have started, concessionaires of both Parties shall determine the operator by lot-drawing.
2. The operator shall have exclusive control of all operations under the operating agreement and employ all personnel required for such operations, pay and discharge all expenses incurred in connection with such operations, and obtain all assets, including equipment, materials and supplies, necessary for carrying out such operations.

ARTICLE VII

A concessionaire of one Party may acquire, construct, maintain, use and dispose of, in the territory of the other Party, buildings, platforms, tanks, pipelines, terminals and other facilities necessary for exploration or exploitation of natural resources in the Joint Development Zone in accordance with the laws and regulations of that other Party.

ARTICLE VIII

A concessionaire of one Party shall not interfere with the discharging by a concessionaire of the other Party of its obligations under the laws and regulations of that other Party, insofar as such obligations are consistent with the provisions of this Agreement.

ARTICLE IX

1. Concessionaires of both Parties shall be respectively entitled to an equal share of natural resources extracted in the Joint Development Zone.
2. Expenses reasonably attributable to exploration and exploitation of such natural resources shall be shared in equal proportions between concessionaires of both Parties.

ARTICLE X

1. The right of concessionaires under this Agreement shall be exploration right and exploitation right.
2. The duration of exploration right shall be eight years from the date of entry into force of the operating agreement, subject to the provisions of paragraph 4 (3) of this article.
3. The duration of exploitation right shall be thirty years from the date of the establishment of such right. Concessionaires of both Parties may apply to the respective Parties for an extension of an additional period of five years. Such application may be made as many times as necessary. The Parties shall, upon receipt of such application, consult with each other to decide whether to approve such application.
4. (1) When commercial discovery of natural resources is made during the period of exploration right, concessionaires of both Parties may apply to the respective Parties for the establishment of exploitation right. When the Parties receive such application, they shall promptly hold consultations and shall without delay approve such application.

(2) When the Parties recognize that commercial discovery is made, each Party may request its concessionaire concerned to present an application for the establishment of exploitation right. Such concessionaire shall present such application within three months after receiving the request.

(3) If exploitation right is established during the period of exploration right, the period of exploration right shall expire on the date of the establishment of exploitation right.
5. In case of any change in concessionaire of one Party, the period of exploration right or exploitation right of a new concessionaire shall expire on the date of expiration of the period of exploration right or exploitation right of the original concessionaire.
6. Exploration right or exploitation right of a concessionaire may be transferred in its entirety subject to the approval of the Party that has authorized it and to the consent of the other concessionaire authorized with respect to the same subzone, provided that the rights and obligations of that concessionaire under this Agreement and the operating agreement are transferred in whole.

ARTICLE XI

1. Concessionaires of both Parties shall be required to drill a certain number of wells during the period of exploration right in accordance with a separate arrangement to be made between the Parties. However, the minimum number of wells to be drilled in each subzone shall not exceed two respectively for the first three-year period, the following three-year period and the remaining two-year period, from the date of entry into force of the operating agreement. The Parties shall, when agreeing upon the minimum number of wells to be drilled in each subzone, take into account the depths of the superjacent waters and the size of each subzone.

2. If concessionaires of both Parties have drilled wells in excess of the requirements during any of the periods referred to in paragraph 1 of this article, such excess wells shall be regarded as having been drilled in the succeeding period or periods.

ARTICLE XII

Concessionaires of both Parties shall start operations within six months from the date of the establishment of exploration right or exploitation right and shall not suspend operations for more than six consecutive months.

ARTICLE XIII

1. Subject to the provisions of paragraph 2 of this article, concessionaires of both Parties shall release twenty-five per cent of the original subzone concerned within three years, fifty per cent of such subzone within six years, and seventy-five per cent of such subzone within eight years, from the date of entry into force of the operating agreement.
2. The size, shape and location of the area to be released and the time of release shall be determined by agreement between concessionaires of both Parties. However, no single area smaller than seventy-five square kilometres shall be released except under paragraph 3 of this article.
3. (1) If concessionaires of both Parties are unable to agree on the area to be released under paragraph 1 of this article, concessionaires of both Parties shall release, on the date of the expiration of the release period concerned, the area mutually proposed for release and fifty per cent of the areas respectively proposed for release in such a way that the total area to be released will be a single area whenever possible.

(2) If there is no area mutually proposed for release, concessionaires of both Parties shall release fifty per cent of the areas respectively proposed for release.
4. Concessionaires of both Parties may release voluntarily any area subject to the provisions of paragraph 2 of this article.
5. Notwithstanding the provisions of paragraph 2 of this article, a concessionaire may unilaterally release the total subzone concerned after two years have elapsed from the date of entry into force of the operating agreement.

ARTICLE XIV

1. Either Party may, by pertinent procedures laid down in its laws and regulations concerning the protection of concessionaires, cancel exploration right or exploitation right of its concessionaire after consultations with the other Party if such concessionaire fails to discharge any of its obligations under this Agreement or the operating agreement.
2. When either Party intends to cancel in accordance with its laws and regulations exploration right or exploitation right of its concessionaire, that Party shall notify the other Party of its intention at least fifteen days prior to such cancellation, except under paragraph 1 of this article.
3. The cancellation of exploration right or exploitation right by one Party shall be notified to the other Party without delay.

ARTICLE XV

1. When a concessionaire of one Party has unilaterally released a subzone under paragraph 5 of article XIII, when exploration right or exploitation right of a concessionaire of one Party has been cancelled under article XIV or when a concessionaire of one Party has ceased to exist (any such concessionaire hereinafter referred to as "the former concessionaire"), the remaining concessionaire in the subzone concerned may, until such time as the Party that has authorized the former concessionaire authorizes a new concessionaire, carry out exploration or exploitation of natural resources under the terms of the sole risk operation clauses and under other relevant provisions of the operating agreement to which such remaining concessionaire and the former concessionaire were parties, subject to the approval of the Party that has authorized the former concessionaire.
2. For the purposes of paragraph 1 of this article, the remaining concessionaire shall be regarded as a concessionaire of the Party that has authorized the former concessionaire in respect of rights and obligations of a concessionaire, while retaining its own concessionaireship. The provisions of the above sentence shall not apply to taxation upon the remaining concessionaire with respect to its income derived from exploration or exploitation of natural resources under paragraph 1 of this article.
3. When a new concessionaire is authorized by one Party, the new concessionaire and the remaining concessionaire shall be bound by the operating agreement to which the remaining concessionaire and the former concessionaire were parties until such time as a new operating agreement enters into force. The remaining concessionaire who has started exploration or exploitation of natural resources under paragraph 1 of this article may continue such exploration or exploitation under the terms of the sole risk operation clauses of the operating agreement to which such remaining concessionaire and the former concessionaire were parties until such time as the new operating agreement referred to above enters into force.

ARTICLE XVI

In the application of the laws and regulations of each Party to natural resources extracted in the Joint Development Zone, the share of such natural resources to which concessionaires of one Party are entitled under article IX shall be regarded as natural resources extracted in the continental shelf over which that Party has sovereign rights.

ARTICLE XVII

1. Neither Party (including local authorities) shall impose taxes or other charges upon concessionaires of the other Party with respect to:
 - (a) Exploration or exploitation activities in the Joint Development Zone;
 - (b) Income derived from such activities;
 - (c) The possession of fixed assets in the Joint Development Zone necessary for carrying out such activities; or
 - (d) The subzones with respect to which such concessionaires are authorized.
2. Each Party (including local authorities) may impose taxes and other charges upon its concessionaires with respect to:

- (a) Exploration or exploitation activities in the Joint Development Zone;
- (b) The possession of fixed assets in the Joint Development Zone necessary for carrying out such activities; and
- (c) The subzones with respect to which such concessionaires are authorized.

ARTICLE XVIII

In the application of the laws and regulations of each Party on customs duties, imports and exports:

- (1) The introduction of equipment, materials and other goods necessary for exploration or exploitation of natural resources in the Joint Development Zone (hereinafter referred to as "equipment") into the Joint Development Zone, the subsequent use of equipment therein or the shipment of equipment therefrom shall not be regarded as imports or exports;
- (2) The shipment of equipment from areas under the jurisdiction of one Party to the Joint Development Zone shall not be regarded as imports or exports by that Party;
- (3) The users of equipment in the Joint Development Zone which has been introduced into the Joint Development Zone from areas under the jurisdiction of either Party may be required to submit reports to that Party on the use of such equipment;
- (4) Notwithstanding the provisions of (1) of this article, the shipment of the equipment referred to in (3) of this article from the Joint Development Zone to areas other than those under the jurisdiction of that Party shall be regarded as exports by that Party.

ARTICLE XIX

Except where otherwise provided in this Agreement, the laws and regulations of one Party shall apply with respect to matters relating to exploration or exploitation of natural resources in the subzones with respect to which that Party has authorized concessionaires designated and acting as operators.

ARTICLE XX

The Parties shall agree on measures to be taken to prevent collisions at sea and to prevent and remove pollution of the sea resulting from activities relating to exploration or exploitation of natural resources in the Joint Development Zone.

ARTICLE XXI

- 1. When damage resulting from exploration or exploitation of natural resources in the Joint Development Zone has been sustained by nationals of either Party or other persons who are resident in the territory of either Party, actions for compensation for such damage may be brought by such nationals or persons in the court of one Party (a) in the territory of which such damage has occurred, (b) in the territory of which such nationals or persons are resident, or (c) which has authorized the concessionaire designated and acting as the operator in the subzone where the incident causing such damage has occurred.
- 2. The court of one Party in which actions for compensation for such damage have been brought under paragraph 1 of this article shall apply the laws and regulations of that Party.

3. (1) When damage referred to in paragraph 1 of this article has been caused by digging operations of seabed and subsoil, or discharging of mine water or used water:
 - (a) Concessionaires of both Parties who have exploration right or exploitation right with respect to the subzone concerned at the time of occurrence of such damage,
 - (b) In case no concessionaire has exploration right or exploitation right with respect to the subzone concerned at the time of occurrence of such damage, the concessionaires who had exploration right or exploitation right most recently with respect to the subzone concerned or
 - (c) In case only one concessionaire has exploration right or exploitation right with respect to the subzone concerned at the time of occurrence of such damage, such concessionaire and the former concessionaire as defined in paragraph 1 of article XV, shall be jointly and severally liable for the compensation for such damage in accordance with the laws and regulations applicable under paragraph 2 of this article.
- (2) For the purposes of (1) of this paragraph, when exploration right or exploitation right has been transferred after the occurrence of the damage referred to in (1) of this paragraph, the concessionaire who has transferred exploration right or exploitation right and the concessionaire who has obtained exploration right or exploitation right by such transfer shall be jointly and severally liable for the compensation.

ARTICLE XXII

1. Each Party shall, when assigning a frequency or frequencies to a radio station on a fixed installation for exploration or exploitation of natural resources in the Joint Development Zone, inform as soon as possible prior to such assignment the other Party of such frequency or frequencies, class of emission, antenna power, location of the station and other particulars deemed necessary. Each Party shall likewise inform the other Party of any subsequent changes in the above particulars.
2. The Parties shall hold consultations at the request of either Party for necessary coordination concerning the above particulars.

ARTICLE XXIII

1. If any single geological structure or field of natural resources extends across any of the lines specified in paragraph 1 of article II and the part of such structure or field which is situated on one side of such lines is exploitable, wholly or in part, from the other side of such lines, concessionaires and other persons authorized by either Party to exploit such structure or field (hereinafter referred to as "concessionaires and other persons") shall, through consultations, seek to reach agreement as to the most effective method of exploiting such structure or field.
2. (1) If concessionaires and other persons fail to reach agreement as to the method referred to in paragraph 1 of this article within six months after such consultations have started, the Parties shall, through consultations, endeavour to make a joint proposal concerning such method to concessionaires and other persons within a reasonable period of time.
 - (2) When agreement concerning such method is reached among all or some of concessionaires and other persons, the agreement (including modifications thereof) shall enter into force upon approval by the Parties. Such agreement shall provide for details relating to the sharing, in accordance with paragraph 3 of this article, of natural resources and expenses.

3. In cases of exploitation under the agreement referred to in paragraph 2 (2) of this article, natural resources extracted from such structure or field and expenses reasonably attributable to exploitation of such natural resources shall be shared among concessionaires and other persons in proportion to the quantities of producible reserves in the respective parts of such structure or field which are situated in the area with respect to which they have been authorized by either Party.
4. The provisions of the foregoing paragraphs of this article shall apply *mutatis mutandis* with respect to exploitation of a single geological structure or field of natural resources extending across lines bounding the subzones of the Joint Development Zone.
5. (1) For the purposes of article XVI, the share of natural resources extracted in the Joint Development Zone to which persons (other than concessionaires) authorized by one Party are entitled under paragraph 3 of this article and the agreement referred to in paragraph 2 (2) of this article shall be regarded as the share of natural resources to which concessionaires of that Party are entitled.

(2) For the purposes of article XVII, persons (other than concessionaires) authorized by one Party who are parties to the agreement referred to in paragraph 2 (2) of this article shall be regarded as concessionaires of that Party.

(3) Neither Party (including local authorities) shall impose taxes or other charges upon concessionaires of the other Party with respect to:
 - (a) Exploitation activities carried out outside the Joint Development Zone in accordance with the agreement referred to in paragraph 2 (2) of this article;
 - (b) Income derived from such activities; or
 - (c) The possession of fixed assets necessary for carrying out such activities.

ARTICLE XXIV

1. The Parties shall establish and maintain the Japan-Republic of Korea Joint Commission (hereinafter referred to as "the Commission") as a means for consultations on matters concerning the implementation of this Agreement.
2. The Commission shall be composed of two national sections, each consisting of two members appointed by the respective Parties.
3. All resolutions, recommendations and other decisions of the Commission shall be made only by agreement between the national sections.
4. The Commission may adopt and amend, when necessary, rules of procedure for its meetings.
5. The Commission shall meet at least once each year and whenever requested by either national section.
6. At its first meeting, the Commission shall select its Chairman and Vice- Chairman from different national sections. The Chairman and the Vice-Chairman shall hold office for a period of one year. Selection of the Chairman and the Vice-Chairman from the national sections shall be made in such a manner as will provide in turn each Party with representation in these offices.

7. A permanent secretariat may be established under the Commission to carry out the clerical work of the Commission.
8. The official languages of the Commission shall be Japanese, Korean and English. Proposals and data may be submitted in any official language.
9. In case the Commission decides that joint expenses are necessary, such expenses shall be paid by the Commission through contributions made by the Parties as recommended by the Commission and approved by the Parties.

ARTICLE XXV

1. The Commission shall perform the following functions:
 - (a) To review the operation of this Agreement and, when necessary, deliberate on and recommend to the Parties measures to be taken to improve the operation of this Agreement;
 - (b) To receive technical and financial reports of concessionaires, which shall be submitted annually by the Parties;
 - (c) To recommend to the Parties measures to be taken to settle disputes incapable of solution by concessionaires;
 - (d) To observe operations of operators and installations and other facilities for exploration or exploitation of natural resources in the Joint Development Zone;
 - (e) To study problems, including those relating to the application of laws and regulations of the Parties, unexpected at the time of entry into force of this Agreement, and, when necessary, recommend to the Parties appropriate measures to solve such problems;
 - (f) To receive notices concerning the laws and regulations promulgated by the Parties relating to exploration or exploitation of natural resources in the Joint Development Zone, which shall be submitted by the Parties;
 - (g) To discuss any other matter relating to the implementation of this Agreement.
2. The Parties shall respect to the extent possible recommendations made by the Commission under paragraph 1 of this article.

ARTICLE XXVI

1. Any dispute between the Parties concerning the interpretation and implementation of this Agreement shall be settled, first of all, through diplomatic channels.
2. Any dispute which fails to be settled under paragraph 1 of this article shall be referred for decision to an arbitration board composed of three arbitrators, with each Party appointing one arbitrator within a period of thirty days from the date of receipt by either Party from the other Party of a note requesting arbitration of the dispute, and the third arbitrator to be agreed upon by the two arbitrators so chosen within a further period of thirty days or the third arbitrator to be appointed by the government of a third country agreed upon within such further period by the two arbitrators, provided that the third arbitrator shall not be a national of either Party.

3. If the third arbitrator or the third country is not agreed upon between the arbitrators appointed by each Party within a period referred to in paragraph 2 of this article, the Parties shall request the President of the International Court of Justice to appoint the third arbitrator who shall not be a national of either Party.
4. At the request of either Party, the arbitration board may in urgent cases issue a provisional order, which shall be respected by the Parties, before an award is made.
5. The Parties shall abide by any award made by the arbitration board under this article.

ARTICLE XXVII

Exploration and exploitation of natural resources in the Joint Development Zone shall be carried out in such a manner that other legitimate activities in the Joint Development Zone and its superjacent waters such as navigation and fisheries will not be unduly affected.

ARTICLE XXVIII

Nothing in this Agreement shall be regarded as determining the question of sovereign rights over all or any portion of the Joint Development Zone or as prejudicing the positions of the respective Parties with respect to the delimitation of the continental shelf.

ARTICLE XXIX

Upon the request of either Party, the Parties shall hold consultations regarding the implementation of this Agreement.

ARTICLE XXX

The Parties shall take all necessary internal measures to implement this Agreement.

ARTICLE XXXI

1. This Agreement shall be ratified. The instruments of ratification shall be exchanged at Tokyo as soon as possible. This Agreement shall enter into force as from the date on which such instruments of ratification are exchanged.
2. This Agreement shall remain in force for a period of fifty years and shall continue in force thereafter until terminated in accordance with paragraph 3 of this article.
3. Either Party may, by giving three years' written notice to the other Party, terminate this Agreement at the end of the initial fifty-year period or at any time thereafter.
4. Notwithstanding the provisions of paragraph 2 of this article, when either Party recognizes that natural resources are no longer economically exploitable in the Joint Development Zone, the Parties shall consult with each other whether to revise or terminate this Agreement. If no agreement is reached as to the revision or termination of this Agreement, this Agreement shall remain in force during the period as provided for in paragraph 2 of this article.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at Seoul in the English language, this thirtieth day of January of the year one thousand nine hundred and seventy-four.

For Japan:
TORAO USHIROKU

For the Republic of Korea:
DONG-JO KIM