

ANNEX II

SCHEDULE OF JAPAN

INTRODUCTORY NOTES

1. In the interpretation of an entry, all elements of the entry shall be considered. The **Description** element shall prevail over all other elements.
2. For the purposes of this Annex, the term **JSIC** means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised in October, 2013.

Sector: All

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4)
Senior Management and Boards of Directors (Article 9.11)

Description: Investment

1. When transferring or disposing of its equity interests in, or the assets of, a state enterprise or a governmental entity, Japan reserves the right to:

- (a) prohibit or impose limitations on the ownership of such interests or assets by investors of another Party or their investments;
- (b) impose limitations on the ability of investors of another Party or their investments as owners of such interests or assets to control any resulting enterprise; or
- (c) adopt or maintain any measure relating to the nationality of executives, managers or members of the board of directors of any resulting enterprise.

2. Notwithstanding paragraph 1, the central level of the Government of Japan shall not adopt any prohibition, limitation or measure referred to in paragraph 1 by new laws or regulations following the initial transfer from the central level of government of Japan to an investor of the interests or assets referred to in paragraph 1. For greater certainty, the central level of government of Japan can maintain such prohibition, limitation or measure that is adopted or maintained at the initial transfer.

Existing Measures:

Sector: All

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Senior Management and Boards of Directors (Article 9.11)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Japan reserves the right to adopt or maintain any measure relating to investments in or the supply of telegraph services, betting and gambling services, manufacture of tobacco products, manufacture of Bank of Japan notes, minting and sale of coinage, and postal services in Japan.^{1, 2}

Existing Measures: *Telecommunications Business Law* (Law No. 86 of 1984)
Supplementary Provisions, Article 5
Postal Law (Law No. 165 of 1947), Article 2
Law Concerning Correspondence Delivery Provided by Private Operators (Law No. 99 of 2002)
Horse Racing Law (Law No. 158 of 1948), Article 1
Law relating to Motorboat Racing (Law No. 242 of 1951), Article 2
Bicycle Racing Law (Law No. 209 of 1948), Article 1
Auto Racing Law (Law No. 208 of 1950), Article 3
Lottery Law (Law No. 144 of 1948), Article 4
The Law relating to Unit of Currency and Issue of Coin (Law No. 42 of 1987), Article 10

¹ At the date of entry into force of this Agreement, telegraph services, betting and gambling services, manufacture of tobacco products, manufacture of Bank of Japan notes, and minting and sale of coinage in Japan are restricted to designated enterprises or governmental entities.

² For the purposes of this entry, “postal services” means delivery of other persons’ correspondence (*tanin-no-shinsho-no-sotatsu*) specified in paragraph 2 of Article 4 of *Postal Law* (Law No. 165 of 1947) and correspondence delivery service (*shinshobin-no-ekimu*) within the meaning of the *Law Concerning Correspondence Delivery Provided by Private Operators* (Law No. 99 of 2002), but does not include special correspondence delivery services (*tokutei-shinshobin-ekimu*) within the meaning of the latter Law. Services not included in this definition include delivery of parcels, packages, goods, direct mail and periodicals.

Sports Promotion Lottery Law (Law No. 63 of 1998), Article 3

Sector: All (Unrecognised or Technically Unfeasible Services)

Sub-Sector:

Industry Classification:

Obligations Concerned: Market Access (Article 10.5)

Description: Cross-Border Trade in Services

Japan reserves the right to adopt or maintain any measure relating to services other than those recognised or other than those that should have been recognised by the Government of Japan owing to the circumstances at the date of entry into force of this Agreement.

Any services classified positively and explicitly in JSIC or CPC, at the date of entry into force of this Agreement should have been recognised by the Government of Japan at that time.

Japan reserves the right to adopt or maintain any measure relating to the supply of services in any mode of supply in which those services were not technically feasible at the date of entry into force of this Agreement.

Existing Measures:

Sector:	Aerospace Industry
Sub-Sector:	Space industry
Industry Classification:	
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5) Local Presence (Article 10.6)
Description:	<u>Investment and Cross-Border Trade in Services</u> Japan reserves the right to adopt or maintain any measure relating to the investments in space industry. Japan reserves the right to adopt or maintain any measure relating to the supply of services in space industry, including: (a) services based on technological inducement contracts for importing technology for development, production or use; (b) production services on fee or contract basis; (c) repair and maintenance services; and (d) space transportation services.
Existing Measures:	<i>Foreign Exchange and Foreign Trade Law</i> (Law No. 228 of 1949), Article 27 and Article 30

Sector:	Arms and Explosives Industry
Sub-Sector:	Arms industry Explosives manufacturing industry
Industry Classification:	
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5) Local Presence (Article 10.6)
Description:	<u>Investment and Cross-Border Trade in Services</u> Japan reserves the right to adopt or maintain any measure relating to the investment in the arms industry and explosives manufacturing industry. Japan reserves the right to adopt or maintain any measure relating to the supply of services in the arms industry and explosives manufacturing industry, including: (a) services based on technological inducement contracts for importing technology for development, production or use; (b) production services on fee or contract basis; and (c) repair and maintenance services.
Existing Measures:	<i>Ordinance Manufacturing Law</i> (Law No. 145 of 1953), Article 5 <i>Foreign Exchange and Foreign Trade Law</i> (Law No. 228 of 1949), Article 27 and Article 30 <i>Cabinet Order on Foreign Direct Investment</i> (Cabinet Order No. 261 of 1980), Article 3 and Article 5

Sector:	Information and Communications
Sub-Sector:	Broadcasting industry
Industry Classification:	
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5) Local Presence (Article 10.6)
Description:	<u>Investment and Cross-Border Trade in Services</u> Japan reserves the right to adopt or maintain any measure relating to investments or the supply of services in broadcasting industry. For the purposes of this entry, “broadcasting” means the transmission of telecommunications with the aim of direct reception by the public (paragraph 1 of Article 2 of <i>the Broadcast Law</i> (Law No. 132 of 1950) and does not include on-demand services including such services supplied over the internet.
Existing Measures:	<i>Foreign Exchange and Foreign Trade Law</i> (Law No. 228 of 1949), Article 27 <i>Cabinet Order on Foreign Direct Investment</i> (Cabinet Order No. 261 of 1980), Article 3 <i>Radio Law</i> (Law No. 131 of 1950), Chapter 2 <i>Broadcast Law</i>, Chapter 2, Chapter 5, Chapter 6, Chapter 7 and Chapter 8

Sector:	Education, Learning Support
Sub-Sector:	Primary and secondary educational services
Industry Classification:	
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Market Access (Article 10.5) Local Presence (Article 10.6)
Description:	<u>Investment and Cross-Border Trade in Services</u> Japan reserves the right to adopt or maintain any measure relating to investments or the supply of primary and secondary educational services.
Existing Measures:	<i>Fundamental Law of Education</i> (Law No. 120 of 2006), Article 6 <i>School Education Law</i> (Law No. 26 of 1947), Article 2 <i>Private School Law</i> (Law No. 270 of 1949), Article 3 <i>Law Concerning Advancement of Comprehensive Service Related to Education, Child Care, etc. of Preschool Children</i> (Law No.77 of 2005)

Sector:	Energy
Sub-Sector:	Electricity utility industry Gas utility industry Nuclear energy industry
Industry Classification³:	JSIC 0519* ¹ Miscellaneous metal mining JSIC 2391 Nuclear fuel JSIC 281* ² Electronic devices JSIC 282* ² Electronic parts JSIC 289* ² Miscellaneous electronic parts, devices and electronic circuits JSIC 291* ² Electrical generating, transmission, and distribution apparatus JSIC 292* ² Industrial electrical apparatus JSIC 2952* ² Primary batteries (dry and wet) JSIC 296* ² Electronic equipment JSIC 297* ² Electric measuring instruments JSIC 299* ² Miscellaneous electrical machinery equipment and supplies JSIC 30* ² Manufacture of information and communication electronics equipment JSIC 313* ² Shipbuilding and repairing, and marine engines JSIC 3159* ² Miscellaneous industrial trucks and parts and accessories JSIC 3199* ² Transportation equipment, n.e.c JSIC 33 Production, transmission and distribution of electricity JSIC 34 Production and distribution of gas JSIC 8899* ² Waste disposal business, n.e.c. JSIC 9011* ² General machine repair shops, except construction and mining machinery JSIC 902* ² Electrical machinery, apparatus, appliances and supplies repair shop
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Performance Requirements (Article 9.10) ⁴

³ An asterisk (*1) on the JSIC number indicates that the activities covered by this entry under such number are limited to nuclear materials. An asterisk (*2) on the JSIC number indicates that the activities covered by this entry under such number are limited to the activities related to the nuclear energy industry.

⁴ With respect to the obligation under Article 9.10 (Performance Requirements), this entry applies only to measures which are not inconsistent with the obligations under *the Agreement on Trade-Related Investment Measures*.

Senior Management and Boards of Directors (Article 9.11)
Most-Favoured-Nation Treatment (Article 10.4)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description:

Investment and Cross-Border Trade in Services

Japan reserves the right to adopt or maintain any measure relating to investments or the supply of services in the energy industry listed in the “sub-sector” element.

Existing Measures:

Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 and Article 30
Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3 and Article 5
Electricity Business Law (Law No.170 of 1964), Article 5
Gas Business Law (Law No.51 of 1954), Article 5
Specified Radioactive Waste Final Disposal Law (Law No. 117 of 2000), Chapter 5

Sector:	Fisheries and Services incidental to Fisheries
Sub-Sector:	Fisheries within the territorial sea, internal waters, exclusive economic zone and continental shelf
Industry Classification:	
Obligations Concerned:	National Treatment (Article 9.4 and Article 10.3) Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5) Local Presence (Article 10.6)
Description:	<u>Investment and Cross-Border Trade in Services</u> Japan reserves the right to adopt or maintain any measure relating to investments or the supply of services in fisheries in the territorial sea, internal waters, exclusive economic zone, and continental shelf of Japan. For the purposes of this entry, the term “fisheries” means the work of taking and cultivation of aquatic resources, including the following fisheries related services: (a) investigation of aquatic resources without taking such resources; (b) luring of aquatic resources; (c) preservation and processing of fish catches; (d) transportation of fish catches and fish products; and (e) provision of supplies to other vessels used for fisheries.
Existing Measures:	<i>Foreign Exchange and Foreign Trade Law</i> (Law No. 228 of 1949), Article 27 <i>Cabinet Order on Foreign Direct Investment</i> (Cabinet Order

No. 261 of 1980), Article 3
Law for Regulation of Fishing Operation by Foreign Nationals
(Law No. 60 of 1967), Article 3, Article 4 and Article 6
Law Concerning the Exercise of Sovereign Rights concerning
Fisheries in the Exclusive Economic Zones (Law No. 76 of
1996), Article 4, Article 5, Article 7, Article 8, Article 9,
Article 10, Article 11, Article 12 and 14

Sector: Land Transaction

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)

Description: Investment and Cross-Border Trade in Services

With respect to the acquisition or lease of land properties in Japan, prohibitions or restrictions may be imposed by Cabinet Order on foreign nationals or legal persons, where Japanese nationals or legal persons are placed under identical or similar prohibitions or restrictions in the foreign country.

Existing Measures: *Alien Land Law* (Law No. 42 of 1925), Article 1

Sector: Public Law Enforcement and Correctional Services and Social Services

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 9.4 and Article 10.3)
Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)
Performance Requirements (Article 9.10)
Senior Management and Boards of Directors (Article 9.11)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description: Investment and Cross-Border Trade in Services

Japan reserves the right to adopt or maintain any measure relating to investments or the supply of services in public law enforcement and correctional services, and in social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public training, health, child care and public housing.

Existing Measures:

Sector: Security Guard Services

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Article 10.3)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services

Japan reserves the right to adopt or maintain any measure relating to the supply of security guard services.

Existing Measures: *Security Business Law* (Law No. 117 of 1972), Article 4 and Article 5

Sector: Transport

Sub-Sector: Air transport

Industry Classification:

Obligations Concerned: National Treatment (Articles 9.4)
Performance Requirements (Article 9.10)
Senior Management and Boards of Directors (Article 9.11)

Description: Investment

Japan reserves the right to adopt or maintain any measure with respect to investment in airports or airport operation services as defined in Article 10.1 (Definitions).

Existing Measures:

Sector: All

Sub-Sector:

Industry Classification:

Obligations Concerned: Most-Favoured-Nation Treatment (Article 9.5 and Article 10.4)

Description: Investment and Cross-Border Trade in Services

1. Japan reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral agreement in force on, or signed prior to, the date of entry into force of this Agreement.

2. Japan reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral agreement, other than the agreement referred to in paragraph 1, involving:

- (a) aviation;
- (b) fisheries; or
- (c) maritime matters, including salvage.

Existing Measures: