Introductory Note for the ANNEX II of Japan

In the interpretation of a reservation, all elements of the reservation shall be considered. The “Description” element shall prevail over all other elements.

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.
ANNEX II
Schedule of Japan

1. Sector: All Sectors

Sub-Sector:

Industry Classification:

Obligations Concerned:

National Treatment (Article 9.4)

Senior Management and Boards of Directors (Article 9.10)

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 will 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:
2 Sector: All Sectors
Sub-Sector:
Industry Classification:
Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Senior Management and Boards of Directors (Article 9.10)
Market Access (Article 10.5)
Local Presence (Article 10.6)
Description: Cross-Border Trade in Services and Investment
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
Postal Law (Law No. 165 of 1947), Article 2
Law Concerning Correspondence Delivery Provided by Private Operators

¹ At the time 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 reservation, “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.
(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

Sports Promotion Lottery Law (Law No. 63 of 1998), Article 3
<table>
<thead>
<tr>
<th>3 Sector:</th>
<th>All Sectors (Unrecognized or Technically Unfeasible Services)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector:</td>
<td></td>
</tr>
<tr>
<td>Industry Classification:</td>
<td></td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services</td>
</tr>
</tbody>
</table>

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

Any services classified positively and explicitly in JSIC or CPC, at the time 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 time of entry into force of this Agreement.

Existing Measures:
4  Sector: Aerospace Industry
Sub-Sector: Space Industry

Industry Classification:

Obligations Concerned:
- National Treatment (Articles 9.4 and 10.3)
- Performance Requirements (Article 9.9)
- Senior Management and Boards of Directors (Article 9.10)
- Market Access (Article 10.5)
- Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

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: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27 and 30
5 Sector: Arms and Explosives Industry

Sub-Sector: Arms Industry
Explosives Manufacturing Industry

Industry Classification:

Obligations Concerned:
National Treatment (Articles 9.4 and 10.3)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

Japan reserves the right to adopt or maintain any measure relating to the investment in arms industry and explosives manufacturing industry.

Japan reserves the right to adopt or maintain any measure relating to the supply of services in 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: Ordnance Manufacturing Law (Law No. 145 of 1953), Article 5
Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27 and 30
Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 and 5
Sector: Information and Communications

Sub-Sector: Broadcasting Industry

Industry Classification: 

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)
Market Access (Article 10.5)
Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

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 reservation, “broadcasting” means the transmission of telecommunications with the aim of direct reception by the public (paragraph 1 of Article 2 of the Broadcasting Law (Law No. 132 of 1950)) and does not include on-demand services including such services provided over the internet.

Existing Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27
Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3
Radio Law (Law No. 131 of 1950), Chapter 2
Broadcast Law (Law No. 132 of 1950), Chapters 2 and 5 through 8
<table>
<thead>
<tr>
<th>Sector:</th>
<th>Education, Learning Support</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-Sector:</td>
<td>Primary and Secondary Educational Services</td>
</tr>
<tr>
<td>Industry Classification:</td>
<td></td>
</tr>
<tr>
<td>Obligations Concerned:</td>
<td>National Treatment (Articles 9.4 and 10.3)</td>
</tr>
<tr>
<td></td>
<td>Market Access (Article 10.5)</td>
</tr>
<tr>
<td></td>
<td>Local Presence (Article 10.6)</td>
</tr>
<tr>
<td>Description:</td>
<td>Cross-Border Trade in Services and Investment</td>
</tr>
<tr>
<td></td>
<td>Japan reserves the right to adopt or maintain any measure relating to investments or the supply of primary and secondary educational services.</td>
</tr>
<tr>
<td>Existing Measures:</td>
<td>Fundamental Law of Education (Law No. 120 of 2006), Article 6</td>
</tr>
<tr>
<td></td>
<td>School Education Law (Law No. 26 of 1947), Article 2</td>
</tr>
<tr>
<td></td>
<td>Private School Law (Law No. 270 of 1949), Article 3</td>
</tr>
<tr>
<td></td>
<td>Law Concerning Advancement of Comprehensive Service Related to Education, Child Care, etc. of Preschool Children(Law No.77 of 2005)</td>
</tr>
</tbody>
</table>
8 Sector: Energy

Sub-Sector: Electricity Utility Industry
Gas Utility Industry
Nuclear Energy Industry

Industry Classification:

<table>
<thead>
<tr>
<th>JSIC</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0519*1</td>
<td>Miscellaneous metal mining</td>
</tr>
<tr>
<td>2391*1</td>
<td>Nuclear fuel</td>
</tr>
<tr>
<td>281*2</td>
<td>Electronic devices</td>
</tr>
<tr>
<td>282*2</td>
<td>Electronic parts</td>
</tr>
<tr>
<td>289*2</td>
<td>Miscellaneous electronic parts, devices and electronic circuits</td>
</tr>
<tr>
<td>291*2</td>
<td>Electrical generating, transmission, and distribution apparatus</td>
</tr>
<tr>
<td>292*2</td>
<td>Industrial electrical apparatus</td>
</tr>
<tr>
<td>2952*2</td>
<td>Primary batteries (dry and wet)</td>
</tr>
<tr>
<td>296*2</td>
<td>Electronic equipment</td>
</tr>
<tr>
<td>297*2</td>
<td>Electric measuring instruments</td>
</tr>
<tr>
<td>299*2</td>
<td>Miscellaneous electrical machinery and supplies</td>
</tr>
<tr>
<td>30*2</td>
<td>Manufacture of information and communication electronics equipment</td>
</tr>
<tr>
<td>313*2</td>
<td>Shipbuilding and repairing, and marine engines</td>
</tr>
<tr>
<td>3159*2</td>
<td>Miscellaneous industrial trucks and parts and accessories</td>
</tr>
<tr>
<td>3199*2</td>
<td>Transportation equipment, n.e.c.</td>
</tr>
<tr>
<td>33</td>
<td>Production, transmission and distribution of electricity</td>
</tr>
<tr>
<td>34</td>
<td>Production and distribution of gas</td>
</tr>
<tr>
<td>8899*2</td>
<td>Waste disposal business, n.e.c.</td>
</tr>
<tr>
<td>9011*2</td>
<td>General machine repair shops, except construction and mining machinery</td>
</tr>
<tr>
<td>902*2</td>
<td>Electrical machinery, apparatus, appliances and supplies repair shop</td>
</tr>
</tbody>
</table>

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

Obligations Concerned:

National Treatment (Articles 9.4 and 10.3)

Performance Requirements (Article 9.9)³

³ With respect to the obligation under Article 9.9 (Performance Requirements), this reservation applies only to measures which are not inconsistent with the obligations under Agreement on Trade-Related Investment Measures.
Senior Management and Boards of Directors (Article 9.10)

Most-Favoured-Nation Treatment (Article 10.4)

Market Access (Article 10.5)

Local Presence (Article 10.6)

Description: Cross-Border Trade in Services and Investment

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), Articles 27 and 30

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 and 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 (Articles 9.4 and 10.3) |
| Most-Favoured-Nation Treatment (Articles 9.5 and 10.4) |
| Performance Requirements (Article 9.9) |
| Senior Management and Boards of Directors (Article 9.10) |
| Market Access (Article 10.5) |
| Local Presence (Article 10.6) |
| Description: Cross-Border Trade in Services and Investment |
| 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 reservation, 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: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27 |
| Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3 |
Law for Regulation of Fishing Operation by Foreign Nationals (Law No. 60 of 1967), Articles 3, 4, and 6

Law Concerning the Exercise of Sovereign Rights concerning Fisheries in the Exclusive Economic Zones (Law No. 76 of 1996), Articles 4, 5, 7, 8, 9, 10, 11, 12, and 14
10 Sector: Land Transaction

Sub-Sector:

Industry Classification:

Obligations Concerned: National Treatment (Articles 9.4 and 10.3)

Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)

Description: Cross-Border Trade in Services and Investment

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.

Alien Land Law (Law No. 42 of 1925), Article 1
11 Sector: Public Law Enforcement and Correctional Services and Social Services

Sub-Sector:

Industry Classification:

Obligations Concerned:

National Treatment (Articles 9.4 and 10.3)

Most-Favoured-Nation Treatment (Articles 9.5 and 10.4)

Performance Requirements (Article 9.9)

Senior Management and Boards of Directors (Article 9.10)

Market Access (Article 10.5)

Description:

Local Presence (Article 10.6)

Cross-Border Trade in Services and Investment

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:
12 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), Articles 4 and 5
13 Sector: Transport
Sub-Sector: Air Transport

Industry Classification:

Obligations Concerned: National Treatment (Articles 9.4)
Performance Requirements (Article 9.9)
Senior Management and Boards of Directors (Article 9.10)

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) in Japan.

Existing Measures:
14 Sector: All Sectors

Sub-Sector: 

Industry Classification: 

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

Description: Cross-Border Trade in Services and Investment

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: