

Annex X.II

Referred to in Chapter [X] (Cross-Border Trade in Services)

NON-CONFORMING MEASURES RELATING TO PARAGRAPH 2 OF ARTICLE  
[X.7]

PART 2  
SCHEDULE OF JAPAN

Section 1  
Notes for Section 2

Drafting Note: Japan reserves the right to add, modify or withdraw the offer in this Annex on reservations in total or partially, and to make any change to this offer at any time before the conclusion of the negotiations. This initial offer does not include reservations for investments, mode 3 and financial services. The reservations are based on the draft text of "Chapter on Cross-Border Trade in Services" (latest draft 04/2017).

1. Section 2 of the Schedule of Japan sets out, in accordance with Article [X.7] (Cross-Border Trade in Services - Non-Conforming Measures), the reservations taken by Japan with respect to specific sectors, sub-sectors or activities for which it may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article [X.3] (Cross-Border Trade in Services - Market Access);
- (b) Article [X.4] (Cross-Border Trade in Services - National Treatment);
- (c) Article [X.5] (Cross-Border Trade in Services - Most-Favoured-Nation Treatment);
- (d) Article [X.6] (Cross-Border Trade in Services - Local Presence);

2. Each reservation sets out the following elements:

- (a) "Sector" refers to the general sector in which the reservation is taken;

- (b) "Sub-Sector" refers to the specific sector in which the reservation is taken;
- (c) "Industry Classification" refers, where applicable, and only for transparency purposes, to the activity covered by the reservation according to domestic or international industry classification codes;
- (d) "Type of Reservation" specifies the obligations referred to in paragraph 1 for which the reservation is taken;
- (e) "Description" sets out the scope of the sectors, sub-sectors or activities covered by the reservation; and
- (f) "Existing Measures" identifies, for transparency purposes, existing measures that apply to the sectors, sub-sectors or activities covered by the reservation.

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

4. With respect to air transport services, measures affecting traffic rights or measures affecting services directly related to the exercise of traffic rights are not listed in this Schedule, as these are excluded from the scope of Chapter [X] (Cross-Border Trade in Services) pursuant to subparagraph 2(b) of Article [X.1] (Cross-Border Trade in Services - Scope).

5. Laws and regulations of Japan with regard to spectrum availability affecting obligations under Article [X.3] (Cross-Border Trade in Services - Market Access) are not included in this Schedule, taking into account the Attachment 6 of Guidelines for the Scheduling of Specific Commitments (WTO Document S/L/92, dated 28 March 2001).

6. For the purposes of this Part:

- (a) the term "JSIC" means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised

on 30 October 2013; and

- (b) the term "CPC" means Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

Section 2

Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: Market Access (Article [X.3])

National Treatment (Article [X.4])

Local Presence (Article [X.6])

Description: Cross-Border Trade in Services

Japan reserves the right to adopt or maintain any measure relating to the supply of telegraph services, postal services<sup>1</sup>, betting and gambling services, and sale of coinage in Japan.

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)

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<sup>1</sup> 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.

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

Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: Most-Favoured-Nation Treatment  
(Article [X.5])

Description: 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:

Sector: All Sectors (Unrecognised or Technically Unfeasible Services)

Sub-Sector:

Industry Classification:

Type of Reservation: Market Access (Article [X.3])  
National Treatment (Article [X.4])  
Most-Favoured-Nation Treatment (Article [X.5])  
Local Presence (Article [X.6])

Description: Cross-Border Trade in Services

1. 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.

2. 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:

Sector: Aerospace Industry

Sub-Sector: Aircraft Industry and Space Industry

Industry  
Classification: Market Access (Article [X.3])

Type of  
Reservation: National Treatment (Article [X.4])  
Local Presence (Article [X.6])

Description: Cross-Border Trade in Services

Japan reserves the right to adopt or maintain any measure relating to the supply of services in aircraft industry to the extent not inconsistent with its obligations under Articles XVI and XVII of the GATS, and 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), Article 30

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 5

Aircraft Manufacturing Industry Law (Law No. 237 of 1952), Articles 2 through 5



Sector: Arms and Explosives Industry

Sub-Sector: Arms Industry  
Explosives Manufacturing Industry

Industry  
Classification:

Type of  
Reservation: Market Access (Article [X.3])  
National Treatment (Article [X.4])  
Local Presence (Article [X.6])

Description: Cross-Border Trade in Services

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), Article 30

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 5

Sector: Information and Communications

Sub-Sector: Broadcasting Industry

Industry Classification: JSIC 380 Establishments engaged in administrative or ancillary economic activities

JSIC 381 Public broadcasting, except cablecasting

JSIC 382 Private-sector broadcasting, except cablecasting

JSIC 383 Cablecasting

Type of Reservation: Market Access (Article [X.3])

National Treatment (Article [X.4])

Local Presence (Article [X.6])

Description: Cross-Border Trade in Services

Japan reserves the right to adopt or maintain any measure relating to the supply of services in broadcasting industry.

Existing Measures: Radio Law (Law No. 131 of 1950), Chapter 2

Broadcast Law (Law No. 132 of 1950), Chapters 2 and 5 through 8

Sector: Education, Learning Support

Sub-Sector: Primary and Secondary Educational Services

Industry Classification: JSIC 811 Kindergartens  
JSIC 812 Elementary schools  
JSIC 813 Lower secondary schools  
JSIC 814 Upper secondary schools, secondary schools  
JSIC 815 School for special needs education  
JSIC 819 Integrated centres for early childhood education and care

Type of Reservation: Market Access (Article [X.3])  
National Treatment (Article [X.4])  
Local Presence (Article [X.6])

Description: Cross-Border Trade in Services  
  
Japan reserves the right to adopt or maintain any measure relating to the supply of primary and secondary educational services.

Existing Measures: Fundamental Law of Education (Law No. 120 of 2006), Article 6  
  
School Education Law (Law No. 26 of 1947), Article 2  
  
Private School Law (Law No. 270 of 1949), Article 3  
  
Law concerning Advancement of Comprehensive Service Related to Education, Child Care, etc. of Preschool Children (Law No.77 of 2006)

Sector: Energy

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

Industry Classification: 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 295\*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

(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.)

Type of Reservation:	Market Access (Article [X.3]) National Treatment (Article [X.4]) Most-Favoured-Nation Treatment (Article [X.5]) Local Presence (Article [X.6])
Description:	Cross-Border Trade in Services  Japan reserves the right to adopt or maintain any measure relating to 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 30  Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), 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 Act (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: JSIC 031 Marine fisheries  
JSIC 032 Inland water fisheries  
JSIC 041 Marine aquaculture  
JSIC 042 Inland water aquaculture  
JSIC 8093 Recreational fishing guide business

Type of Reservation: Market Access (Article [X.3])  
National Treatment (Article [X.4])  
Most-Favoured-Nation Treatment (Article [X.5])  
Local Presence (Article [X.6])

Description: Cross-Border Trade in Services

Japan reserves the right to adopt or maintain any measure relating to 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:

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

Sector: Land Transaction

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Articles [X.4])  
Most-Favoured-Nation Treatment  
(Articles [X.5])

Description: Cross-Border Trade in Services

With respect to the 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:

Type of  
Reservation: Market Access (Article [X.3])  
National Treatment (Article [X.4])  
Most-Favoured-Nation Treatment  
(Article [X.5])  
Local Presence (Article [X.6])

Description: Cross-Border Trade in Services

Japan reserves the right to adopt or  
maintain any measure relating to 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: JSIC 923 Guard Services

Type of Reservation: Market Access (Article [X.3])  
National Treatment (Article [X.4])  
Local Presence (Article [X.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