

ANNEX I

EXCEPTIONAL SECTORS OR MATTERS TO ARTICLE 2 AND ARTICLE 4

1. Broadcasting, television
2. Production, publication of cultural products
3. Oil and gas exploitation, and precious mineral mining
4. Fisheries within the territorial sea, internal waters, exclusive economic zone and continental shelf
5. Timber exploitation of natural forest
6. Production of arm, ammunition and explosives
7. Gambling
8. Ownership, utilization of land and house
9. Operation of river ports, seaports and airports
10. Share purchasing of the state-owned enterprise
11. Subsidies

Sector/Matter:

1. Broadcasting, television

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Press and Mass Media (Article 1 and 3)

Decree 24/2000/ND-CP dated July 31, 2000 (Item 1 Article 114 and Annex 1)

Decree 27/2003/ND-CP dated March 19, 2003 (Item 26, Article 1 and Annex 1)

Succinct Description of the Measure:

In accordance with the Law on Press and Mass Media, the Government of Vietnam monopolies the operations of broadcasting and televising, and the Government shall not grant the licence to the Vietnamese private sector and foreign investors.

Purpose or Motivation of the Protecting:

For the purpose of social and cultural order, public safety and national security.

Sector/Matter:

2. Production, publication of cultural products

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law of Publication (Article 19)

Law on Foreign Investment in Vietnam (Item 1 Article 114 and Part IV Annex I)

Decree No. 24/200 ND-CP on 31 July 2000, providing in detail the implementation of the Law on Foreign Investment in Vietnam (Hereinafter is Decree No 24/2000 ND-CP)

Decree No. 27/2003 ND-CP on 19 March 2003 on the amendment of and adjust to some articles of Decree No. 24/2000/ND-CP providing in detail the implementation of the Law on Foreign Investment in Vietnam (Hereinafter is Decree No 27/2003 ND-CP)

Succinct Description of the Measure:

Projects in this sector must be approved by the Government.

Investment must be made in the form of business cooperation contract.

Purpose or Motivation of the Protecting:

For the purpose of social and cultural order, public safety and national security.

Sector/Matter:

3. Oil and gas exploitation, and precious mineral mining

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Minerals (Article 21, 25, 31 and 44);

Decree 76/2000/ND-CP dated December 15, 2000 (Article 15, 17, 18 and 52)

Law on Foreign Investment in Vietnam

Law on Petroleum dated July 19, 1993 (Article 2)

Decree 48/2000/ND-CP dated Sept 12, 2000 of the Government making detailed provisions for the implementation of the Law on Petroleum (Article 3)

Decree No. 24/2000/ND-CP (Item 1 Article 114)

Decree No. 27/2003/ND-CP (Point 1.2, Item 1, Clause IV, and the List of businesses the investment in which is conditional)

Succinct Description of the Measure:

Projects in this sector must be approved by the Government.

The exploitation licence is required.

Purpose or Motivation of the Protecting:

Projects in this sector must be approved by the Government.

The exploitation licence is required.

Sector/Matter:

4. Fisheries within the territorial sea, internal water, exclusive economic zone and continental shelf

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign Investment in Vietnam

Decree No. 24/2000/ND-CP (Item 3 Part IV Annex I)

Decree No. 27/2003/ND-CP (Item 3 Part IV Annex I)

Law of the Sea

Decree No. 49/1998/ND-CP on 13 July, 1998 of the Government on fish catching operations of foreigner and foreign equipment and vessels in sea areas of Vietnam (Article 3, 6).

Decree No. 86/2001/NĐ-CP dated November 16, 2001 on conditions on fisheries business (Article 3, 4, 5 and 6);

Law on Fisheries dated November 26, 2003 (Article 50)

Succinct Description of the Measure:

Licence shall not be granted to foreign investors.

Purpose or Motivation of the Protecting:

For the purpose of environment protection and marine living resources in the surrounding sea area of Vietnam.

Sector/Matter:

5. Timber exploitation of natural forest

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Protection and Development of Forest dated August 12, 1991

Law on Foreign Investment in Vietnam

Decree No. 24/2000/ND-CP (Item 3 Part V Annex I)

Decree No. 27/2003/ND-CP (Item 3 Part V Annex I)

Succinct Description of the Measure:

License shall not be granted to the investment in the exploitation of natural forest.

Purpose or Motivation of the Protecting:

For the purpose of ecological protection and beneficial resources of the forest that exhausted exploitation.

Sector/Matter:

6. Production of Arm, ammunition and explosives

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign Investment in Vietnam

Decree No. 24/2000/ND-CP (Item 4 Part V Annex I)

Decree No. 27/2003/ND-CP (Item 4 Part V Annex I)

Succinct Description of the Measure:

Licence shall not be granted to the investments in the field of production of arm, ammunition and explosives.

Purpose or Motivation of the Protecting:

For the purpose of national security.

Sector/Matter:

7. Gambling

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign Investment in Vietnam

Decree No. 27/2003/N§-CP dated March 19, 2003 (Item 26 Article 1)

Decision No. 32/2003/QD-TTg dated 27/2/2003 of the Prime Minister on the electronic gambling business for foreigners (Article 4, 5, 6, 7, 8 and 13)

Succinct Description of the Measure:

To be considered and approved in limited quantity in accordance with the provision of the Government and only foreigners are allowed to gamble.

Purpose or Motivation of the Protecting:

For the purpose of social order and safety.

Sector/Matter:

8. Ownership, utilization of land and house

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign Investment in Vietnam

Decree No. 24/2000/ND-CP (Article 85 and 92)

Decree No. 27/2003/ND-CP (Item 16, 19 Article 1)

Law on land dated December 10, 2003 (Article 9, 119)

Succinct Description of the Measure:

1. Foreign investors are not allowed to own land and house. Foreign investors are allowed to lease land for the investment purposes.
2. Foreign-invested-capital enterprises are allowed to mortgage the value of the land use rights and assets associated to the land within the term of land lease or land re-lease at the credit institutions operating in Vietnam in the following cases:
 - (a) Foreign-invested-capital enterprises have paid the land rental for several years and the land rental that has already paid remained at least 5 years.
 - (b) Foreign joint venture enterprises to which the Vietnamese sides contribute by the land use rights, and the term of the contribution by the land use rights of the Vietnamese sides remains at least 5 years.
3. Foreign investors are not allowed to assign the land use rights except for the case that the invested assets associated to the land are assigned within the term of the land lease.

Purpose or Motivation of the Protecting:

To ensure the State administration right over land and effectively utilize land.

Sector/Matter:

9. Operation of river ports, seaports and airports

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign Investment in Vietnam

Decree No. 24/2000/ND-CP (Article 114 and Item 1.2 Part IV Annex I)

Decree No. 27/2003/ND-CP (Item 26 Article 1; Item 1.2 Part IV Annex I)

Succinct Description of the Measure:

The projects in the field of operation of river ports, seaports and airports must be approved by the Government. The investment license shall be granted to the Japanese investors only in the form of joint venture.

Purpose or Motivation of the Protecting:

Protection of national security and social order and safety.

Sector/Matter:

10. Share purchasing of the state-owned enterprise

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Decision No. 36/2003/QD-TTg on 11 March, 2003 of the Prime Minister (Article 4)

Succinct Description of the Measure:

Nationals and companies of Japan shall be allowed to purchase shares not exceeding 30% of a state-owned enterprise to be equitized.

Purpose or Motivation of the Protecting:

To assure the control of the state-owned enterprises.

Sector/Matter:

11. Subsidies

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

General policy of the State

Succinct Description of the Measure:

Vietnamese Government will not grant subsidies to Japanese investors

Purpose or Motivation of the Protecting:

To protect the business of a number of State owned enterprises of Vietnam.

ANNEX II

EXCEPTIONAL SECTORS OR MATTERS TO ARTICLE 2 AND ARTICLE 4

1. Horizontal matters (applied to all sectors and subsectors of this Annex)
2. Legal services
3. Accounting, auditing and book keeping services
4. Taxation services
5. Advertising services
6. Value-added telecommunication services
7. Basic telecommunication services
8. Voice telephone services including fix local, long distance and international
9. Construction, installation, operation and maintenance of telecommunication equipment
10. Audio visual service
11. Insurance services
12. Banking and other financial services
13. Real estate business
14. Travel agencies and tours operators services
15. Transportation services
16. Processing of paper, vegetable oil, milk, cane sugar, wood processing (except projects using imported wood)
17. NPK fertilizer, beer and cigarettes
18. Manufacturing and assembling of automobiles
19. Distribution services
20. Electricity and domestic air transport

Sector/Matter:

1. Horizontal matters (applied to all sectors and sub-sectors of this annex)

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign Investment in Vietnam (Article 4, 19)

Decree No. 45/2000/ND-CP dated September 6, 2000 of the Government stipulating representative offices and branch offices of foreign traders and foreign tourism enterprises in Vietnam (Article 2)

Succinct Description of the Measure:

Unless otherwise indicated in each specific sector or sub-sector of this Annex:

- Companies of Japan are allowed to do investment activities in Vietnam under the Law on Foreign Investment in Vietnam in the form of business cooperation contract, joint venture enterprise, enterprise with 100% Japan-invested capital, BOT and BTO.
- Companies of Japan shall be permitted to establish their resident representative offices in Vietnam. These offices shall not engage in any profit-taking activities in Vietnam.

Purpose or Motivation of the Protecting:

The foreign investors in Vietnam shall be established under forms in conformity with laws and regulations of Vietnam.

Sector/Matter:

2. Legal services

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Ordinance on Lawyer dated July 25, 2001 (Article 43)

Decree 94/2001/ND-CP dated December 12, 2001 of the Government guiding the implementation of the Ordinance on Lawyers.

Decree No. 87/2003/ND-CP dated July 22, 2003 of the Government on the professional practice of foreign lawyers' associations and foreign lawyers in Vietnam (Article 8, 29 and 45)

Succinct Description of the Measure:

Companies of Japan may supply services in the form of branches, company with 100% Japan-invested capital, and Vietnam-Japan joint ventures.

Practicing lawyers of Japan shall not be permitted to participate in legal proceedings in the capacity of defenders or representatives of their clients before the courts of Vietnam

The term of operation of branches of Japanese law firms is 5 years from the date when license is granted and may be extended every 5 years.

Branches of Japanese law firms, law firms with 100% Japan-invested capital, joint venture law firms between Vietnamese law firms and Japanese law firms shall be permitted to make consultations on Vietnamese laws if the consulting lawyers have graduated from a Vietnamese law college and satisfy like requirements applied to Vietnamese law practitioners.

Purpose or Motivation of the Protecting:

To protect legal service practices of Vietnamese lawyers; For the purpose of maintaining the standard of care in legal service activities.

Sector/Matter:

3. Accounting, auditing and book keeping services

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Auditing and Statistics dated June 17, 2003

Decree No. 105/2004/ND-CP dated March 30, 2004 of the Government on independent auditing (Article 13, 14, 20, 21, 23 and 30)

Law on Foreign Investment in Vietnam

Decree No. 24/200 ND-CP on 31 July 2000, providing in detail the implementation of the Law on Foreign Investment in Vietnam (Hereinafter is Decree No 24/2000 ND-CP)

Decree No. 27/2003 ND-CP on 19 March 2003 on the amendment of and adjust to some articles of Decree No. 24/2000/ND-CP providing in detail the implementation of the Law on Foreign Investment in Vietnam (Hereinafter is Decree No 27/2003 ND-CP).

Succinct Description of the Measure:

Foreign branches have not been yet permitted to be established in Vietnam. In case that foreign companies and corporations are allowed to establish their branches in Vietnam by laws and regulations of Vietnam, the Japanese companies and corporations shall be permitted to establish their branches in Vietnam.

To be granted a license, the service supplying company must have at least 5 persons (foreigners or Vietnamese) having a CPA issued by the Ministry of Finance or by a foreign professional institution recognized by the Ministry of Finance, and having been registered to practice in Vietnam as auditors for more than 1 year.

Purpose or Motivation of the Protecting:

For the purpose of maintaining the cautioned measures in financial services and protecting of operation in auditing and accounting of the Vietnamese firms.

Sector/Matter:

4. Taxation services

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Decree No. 24/2000/ND-CP

Decree No. 27/2003/ND-CP

Succinct Description of the Measure:

Foreign branches have not been yet permitted to be established in Vietnam. In case that foreign companies and corporations are allowed to establish their branches in Vietnam by laws and regulations of Vietnam, the Japanese companies and corporations shall be permitted to establish their branches in Vietnam.

Service supplying companies with Japan-invested capital are only permitted to supply services to foreign invested enterprises and foreign funded projects in Vietnam. Such limitations shall be eliminated for investors and investments of Japan, no later than the date when they are eliminated for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.

Purpose or Motivation of the Protecting:

For secure guarantee in financial services and protection of financial service activities of Vietnamese firms.

Sector/Matter:

5. Advertising services

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Decree No. 24/2000/ND-CP

Decree No. 27/2003/ND-CP

Ordinance on Advertisement dated November 16, 2001 (Article 21)

Decree No. 24/2003/ND-CP dated 13/3/2003 on detail provision of Ordinance on Advertisement. (Article 21)

Succinct Description of the Measure:

Only in the form of joint venture or business cooperation contract with Vietnamese partners who are legally authorized to do advertising services.

Purpose or Motivation of the Protecting:

To protect the social and cultural order.

Sector/Matter:

6. Value-added telecommunication services:

Electronic mail

Voice mail

On-line information and data base retrieval

Electronic data interchange (EDI)

Enhance/value-added facsimile services including store and forward, store and retrieve

Code and protocol conversion

On-line information and data processing

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Decree No. 24/2000/ND-CP (Item 1 Part IV Annex I)

Decree No. 27/2003/ND-CP

Ordinance on telecommunication dated May 25, 2002

Succinct Description of the Measure:

Only in the form of business cooperation contract or joint venture with Vietnamese partners.

Internet services shall be implemented in the form of joint ventures by the investors and investments of Japan, no later than the date when they are implemented by the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.

The capital contribution of the Japanese side shall not exceed 49% of the legal capital of the joint venture.

Joint venture enterprises are not permitted to construct their own long-distance and international circuit, but have to lease them from the Vietnamese operators.

Purpose or Motivation of the Protecting:

For the purpose of social order and safety, national security and protection of business activities of Vietnamese enterprise.

Sector/Matter:

7. Basic telecommunication services:

Packet-switch data transmission services

Circuit-switch data transmission services

Telex services

Telegraph service

Facsimile

Private leased circuit services

Radio based services (including cellular, mobile and satellite).

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Decree No. 24/2000/ND-CP (Item 1 Part IV Annex I)

Decree No. 27/2003/ND-CP

Ordinance on telecommunication dated May 25, 2002

Succinct Description of the Measure:

Only in the form of business cooperation contract with a Vietnamese partners who are authorized to provide telecommunication services.

Joint ventures of Japan with Vietnamese partners who are authorized to provide telecommunication services shall be permitted, no later than the date when they are permitted for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier. The capital contribution of Japanese side may not exceed 49% of the legal capital of the joint venture.

Joint venture enterprises are not permitted to construct their own long-distance and international circuit, but have to lease them from the Vietnamese operators.

Purpose or Motivation of the Protecting:

For the purpose of protecting of national security and business of Vietnamese enterprise.

Sector/Matter:

8. Voice telephone services including fix local, long distance and international

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Decree No. 24/2000/ND-CP (Item 1 Part IV Annex I)

Decree No. 27/2003/ND-CP

Ordinance on telecommunication dated May 25, 2002

Succinct Description of the Measure:

Only in the form of business cooperation contract with a Vietnamese partners who are authorized to provide telecommunication services.

Joint venture of Japan with Vietnamese partners who are authorized to provide telecommunication services shall be permitted, no later than the date when they are permitted for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier. The capital contribution of Japanese side may not exceed 49% of the legal capital of the joint venture.

Purpose or Motivation of the Protecting:

For the purpose of the protecting of business activities of Vietnamese enterprise.

Sector/Matter:

9. Construction, installation, operation and maintenance of telecommunication equipment

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Ordinance on telecommunication dated May 25, 2002

Decree No. 24/2000/ND-CP (Point a Item 1 Article 114)

Decree No. 27/2003/ND-CP

Succinct Description of the Measure:

Projects in the field of construction, installation, operation and maintenance of telecommunication equipment must be approved by the Government. The investment-licensing agency shall consider within 45 days upon the date of receiving rightful and legal documents. In case that the investment-licensing agency is not satisfied with the result of evaluation, the investment-licensing agency shall request the Japanese investors to adjust or amend the project documents, or refuse to issue the investment license.

Purpose or Motivation of the Protecting:

For the purpose of protecting domestic enterprises from impact of the participation of foreign enterprise to assure national security and social order and safety.

Sector/Matter:

10. Audio visual service:

Film production and distribution services (excluding video tapes)

Motion picture projection services

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Decree No. 24/2000/ND-CP (Item 1 Part IV Annex I)

Decree No. 27/2003/ND-CP

Succinct Description of the Measure:

Only in the form of business cooperation contract or joint venture with Vietnamese partners who are legally authorized to provide these services in Vietnam.

The capital contribution of Japanese side shall not exceed 49% of the legal capital of the joint venture. The capital limitation shall become 51%, no later than the date when it is applied to investors and investments of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.

Purpose or Motivation of the Protecting:

To protect social and cultural order.

Sector/Matter:

11. Insurance services:

- (a) Life, and accident insurance services (excluding health insurance services)
- (b) Non life insurance services
- (c) Re-insurance and retrocession
- (d) Services auxiliary to insurance (including broking and agency services)

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Insurance Business (Article 9, 59, 63, 105, 106 and 107)

Decree No. 42/2001/ND-CP dated August 01, 2001 of the Government providing detailed regulations for the implementation of a number of articles of the Law on Insurance Business (Article 34 and 38)

Law on Foreign investment in Vietnam

Decree No. 24/2000/ND-CP

Decree No. 27/2003/ND-CP

Succinct Description of the Measure:

Joint ventures with Vietnamese partners who are authorized to provide insurance services shall be established. The capital contribution of the Japanese side shall not exceed 70% of the legal capital of the joint venture.

Companies with 100% Japan-invested capital shall be allowed to be established no later than the date when it is allowed for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier. In a special case where Japanese insurance companies wish to set up 100% Japan-invested capital company before such date, Vietnamese side shall consider favorably granting of licenses based on the principle that Japanese investors

should be accorded treatment no less favorable than investors and investments of any third country.

Services supplying companies with Japan-invested capital shall not be allowed to provide insurance agent services.

Service supplying companies with Japan-invested capital shall not be allowed to engage in statutory insurance business: motor vehicle third party liability; insurance in construction and installation; insurance for oil and gas projects; and insurance for projects and construction of high danger to public security and environment. This limitation shall be eliminated for joint ventures with Japan- invested capital no later than the date when it is eliminated for investors and investments of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.

With respect to reinsurance, joint venture companies, companies with 100% Japan-invested capital and branches of insurance companies of Japan shall reinsure with the Reinsurance Company of Vietnam with the minimum proportion of 20%. This limitation shall be abolished for investors and investments of Japan, no later than the date when it is abolished for investors and investments of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.

Purpose or Motivation of the Protecting:

To guarantee the standard of insurance service for the community.

Sector/Matter:

12. Banking and other financial services:

- (a) Acceptance of deposits and other repayable funds from the public;
- (b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;
- (c) Financial leasing;
- (d) All payment and money transmission services, including credit, charge and debit cards, travelers' cheques and bankers drafts;
- (e) Guarantees and commitments
- (f) Money broking
- (g) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;
- (h) Settlement and clearing services for financial assets, including securities, derivative products and other negotiable instruments;
- (i) Provision and transfer of financial information, and financial data processing and related software by supplier of other financial services;
- (j) Advisory, intermediation and other auxiliary financial services on all activities listed in subparagraphs (a) through (k), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.
- (k) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
 - i. money market instruments (including cheques, bills, certificates of deposits);
 - ii. foreign exchange;

- iii. derivative products including, but not limited to, futures and options;
 - iv. exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
 - v. transferable securities;
 - vi. other negotiable instruments and financial assets, including bullion;
- (1) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on State Bank

Law on Credit Institutions (Article 12, 105, 106)

Decree No. 13/1999/ND-CP dated March 17, 1999 on foreign credit institutions and representative offices of foreign credit institutions in Vietnam (Article 2, 3, 26, 30, 31, 32, 33 and 34)

Decree No. 16/2001/ND-CP dated May 2, 2001 on the organisation and operation of finance leasing companies (Article 2, 3, 8, 16)

Decree No. 82/1998/ND-CP dated October 3, 1998 on the List of legal capital of credit institutions (Article 2 and Item 8 and 9 Part II of the List)

Decree No. 24/2000/ND-CP dated July 31, 2000 (Article 92)

Decree No. 27/2003/ND-CP dated March 19, 2003 (Article 1.19)

Succinct Description of the Measure:

1. Restricted as follows:

- a) Japanese financial service suppliers are permitted to provide services in Vietnam through the following legal forms: branches of a Japanese bank; Japan-Vietnam joint venture banks; 100% Japan-invested financial leasing companies, and Japan-Vietnam joint venture financial leasing companies.
- b) The only legal form in which other Japanese financial service suppliers (besides banks and leasing companies) may provide financial services in Vietnam is through joint ventures with Vietnamese partners, until the date when this limitation is lifted for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.
- c) Japanese banks will be permitted to establish 100% subsidiary banks in Vietnam, no later than it is permitted for the ones of any third country or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier. Until that time, Japanese banks may establish joint-venture banks in Vietnam in which the equity participation of the Japanese partner shall not be less than 30% but not exceed 49% of the legal capital of the joint venture.
- d) Vietnam may limit, on a national treatment basis, equity participation by Japanese banks in privatized Vietnamese state-owned banks to the same level as equity participation by Vietnamese banks in the privatized state-owned banks.
- e) Vietnam may limit the right of Japanese bank branches to accept deposits in dong from Vietnamese legal persons with which the bank does not have a credit relationship to a ratio of the branch's paid-in capital according to the schedule below. Such limitations shall be lifted for the Japanese bank branches no later than they are lifted for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier. Thereafter, such limitations will be abolished:
 - Year 1: 250% of legal paid-in capital
 - Year 2: 400% of legal paid-in capital
 - Year 3: 600% of legal paid in capital
 - Year 4: 700% of legal paid in capital
 - Year 5: 900% of legal paid in capital
 - Year 6: Full national treatment

Vietnam may limit the right of a Japanese bank branches to accept deposits in dong from Vietnamese natural persons with which the bank does not have a credit relationship to a ratio of the branch's paid-in capital according to the schedule below. Such limitations shall be lifted for Japanese bank branches no later than they are lifted for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier. Thereafter, such limitations will be abolished:

Year 1: 250% of legal paid-in capital

Year 2: 350% of legal paid-in capital

Year 3: 500% of legal paid in capital

Year 4: 650% of legal paid in capital

Year 5: 800% of legal paid in capital

Year 6: 900% of legal paid in capital

Year 7: 1000% of legal paid in capital.

Year 8: Full national treatment

In no year during the phase-in period the combined ratio of dong deposits to legal paid-in capital of Japanese bank branches shall exceed full national treatment.

- f) Financial institutions with Japan-invested capital are allowed to issue credit cards on a national treatment basis, no later than the date when the ones of any third country are allowed, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.
- g) Branches of a Japanese bank have been allowed to open their offices of such banks and their automatic teller machines. They shall be allowed to open other transaction points, no later than the date when the ones of any third country are allowed, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.
- h) Non-bank Japan securities service suppliers are permitted to be established only as representative offices in Vietnam.

2. Restricted as follows:

a) The conditions for establishing branches of a Japanese bank in Vietnam are:

- Minimum capital of the branch is granted by its parent bank of US\$15 million
- Its parent bank guarantees, in a written form, to undertake all responsibilities and commitments of its branch in Vietnam.

b) The condition for establishing Japan-Vietnam joint venture banks or 100%-owned subsidiaries of a Japan bank is:

Minimum legal capital of US\$10 million.

c) The financial and banking institutions with 100% Japan-invested capital in Vietnam shall be allowed to take mortgage of land use rights of the foreign-invested capital enterprises in Vietnam upon the date when Vietnam permits the financial and banking institutions with 100% invested capital of any third country operating to this purpose, or the Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier, and shall be allowed acquire the land use rights that may be mortgaged for loans in case of default, bankruptcy or dissolution of such borrowers.

d) The conditions for establishing 100% Japan-invested subsidiaries of a Japanese financial leasing company or joint-venture financial leasing companies are:

- Investors must have three consecutive profit making years;
- Legal capital shall not be less than US\$5 million.

f) Vietnam shall provide full national treatment to Japanese bank branches with regard to access to the central bank for rediscounting, swap, and forward facilities no later than the date when it is provided to the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.

Purpose or Motivation of the Protecting:

To ensure the stability and safety of the national financial system.

Sector/Matter:

13. Real estate business

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Law on Land dated December 10, 2003 (Item 6, 7 Article 9; Item 7 Article 34, Point e, Item 1, 2, Article 35; Article 61, 62, 119, 120 and 121)

Decree No. 24/2000/ND-CP (Item 1 Article 114)

Decree No. 27/2003/ND-CP (Item 26 Article 1)

Decree No. 60/CP dated July 5, 1994 on the ownership rights over houses and land in urban areas (Article 18, 19, 21 and 22)

Decree No. 61/CP dated July 5, 1994 on sales of houses and the house business (Article 18 and 19)

Succinct Description of the Measure:

The projects in the field of real estate operation must be approved by the Government. The investment-licensing agency shall consider within 45 days upon the date of receiving rightful and legal project documents. In case that the investment-licensing agency is not satisfied with the result of evaluation, the investment-licensing agency shall request the foreign investors to adjust or amend the project documents, or refuse to issue the investment license.

Purpose or Motivation of the Protecting:

For the purpose of protection of national security and social order and domestic enterprises.

Sector/Matter:

14. Travel agencies and tours operators services

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Decree No. 24/2000/ND-CP (Article 114 and 115)

Decree No. 27/2003/ND-CP (Item 26 and 27 Article 1)

Ordinance on Tourism dated February 8, 1998 (Article 26, 27, 28, 29, 30, 31 and 32)

Decree 27/2001/ND-CP dated June 25, 2001 of the Government on travel tour business and tourist guide (Article 3, 6, 7, 9, 10 and 13)

Decree 39/2000/ND-CP dated August 24, 2000 of the Government on tourist accommodation institutions (Article 6, 7 and 8)

Decree 45/2000/ND-CP dated August 24, 2000 of the Government on representative offices and branch offices of foreign traders and foreign tourism enterprises in Vietnam (Article 2, 4, 5 and 13)

Succinct Description of the Measure:

Service supplying companies of Japan are permitted to provide services in the form of joint venture with Vietnamese partners.

The capital contribution of Japanese side shall not exceed 49% of the legal capital of the joint venture.

This limitation shall become 51% for investors and investments of Japan, no later than the date when it becomes 51% for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier. It shall be eliminated no later than the date when it is eliminated for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.

Tourist guides in joint ventures shall be Vietnamese citizens.

Service supplying companies with Japanese invested capital can only do inbound services.

Purpose or Motivation of the Protecting:

For the purpose of protection of social order and safety.

Sector/Matter:

15. Transportation services

1. Transport of goods and passengers by railways, by air, by road, by waterways and by sea

2. Supporting transportation services:

2.1. By Sea:

(a) Shipping agency, Towing and tug assistance

(b) Other supporting services:

Maritime transport agency services (including Freight forwarding services), Maritime brokerage services, Ship's chandler services, Tally services, Ship repair services at port, Garbage collection and ballast waste disposal services, Stevedoring services at port.

2.2. By Air:

(a) Air transport agency services (including Freight forwarding services):

(b) Other services: Airport operation services, Air traffic control services and other supporting services for air transport:

2.3. By railways and by road:

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Decree No. 125/2003/ND-CP dated October 29, 2003 on the business on multiform transportation (Article 5 and 6)

Law on Foreign Investment in Vietnam

Decree 24/2000/ND-CP (Item 1 Article 114)

Decree 27/2003/ND-CP (Item 26 Article 1 and Point 1.2 Item I Part V Annex I)

Law on Civil Aviation of Vietnam (Article 55, 57 and 58) and the Law on amendment of a number of articles of the Law on Civil Aviation of Vietnam dated April 20, 1995 (Item 6 and 7 Article 1)

Decree No. 10/2001/ND- CP dated April 15, 2001 Business on Shipping services (Article 2, 13, 14, 15, 16, 17, 18, 19 20 and 21)

Maritime Code dated June 30, 1990 (Article 9, 23)

Succinct Description of the Measure:

1. Transport of goods and passengers by railways, by air, by road, by waterways and by sea:

The sector of transport of goods and passengers by railways, by air, by road, by waterways and by sea are only in the form of business cooperation contract or joint venture.

2. Supporting transportation services:

2.1. By Sea:

(a) Shipping agency, Towing and tug assistance

The sector of shipping agency, towing and tug assistance has not been yet open to foreign investors.

(b) Other supporting services:

Maritime transport agency services (including Freight forwarding services), Maritime brokerage services, Ship's chandler services, Tally services, Ship repair services at port, Garbage collection and ballast waste disposal services, Stevedoring services at port.

The contribution of the Japanese side shall not exceed 49% of investment capital.

2.2. By Air:

(a) Air transport agency services (including Freight forwarding services):

The contribution of the Japanese side shall not exceed 49% of investment capital.

(b) Other services: Airport operation services, Air traffic control services and other supporting services for air transport:

The foreign investors must apply the applications to the investment-licensing agency when they have proposals to invest in this field. The investment-licensing agency shall consider within 45 days upon the date of receiving rightful and legal project documents. In case that the investment-licensing agency is not satisfied with the result of evaluation, the investment-licensing agency shall request the foreign investors to adjust or amend the project documents, or refuse to issue the investment license.

2.3. By railways and by road:

The foreign investors must apply the applications to the investment-licensing agency when they have proposals to invest to this field. The investment-licensing agency shall consider within 45 days upon the date of receiving rightful and legal project documents. In case that the investment-licensing agency is not satisfied with the result of evaluation, the investment-licensing agency shall request the foreign investors to adjust or amend the project documents, or refuse to issue the investment license.

Purpose or Motivation of the Protecting:

For the purpose of ensuring jurisdiction and management in respect of transportation services.

Sector/Matter:

16. Processing of paper, vegetable oil, milk, cane sugar, wood processing (except projects using imported wood)

Relevant Obligation:

National Treatment

Prohibition of Performance Requirement

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Decree No. 24/2000/ND-CP (Part IV Annex I)

Decree No. 27/2003/ND-CP (Part IV Annex I)

Commitments of Vietnam

Succinct Description of the Measure:

Investment projects in this field are required to develop local raw material sources. This limitation shall be eliminated for the investors and investments of Japan, no later than the date when they are eliminated for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.

Purpose or Motivation of the Protecting:

For the purpose of ensuring efficient use of domestic material sources for a certain period.

Sector/Matter:

17. Npk fertilizer, beer and cigarettes

Relevant Obligation:

National Treatment

Prohibition of Performance Requirement

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Decree No. 24/2000/ND-CP

Decree No. 27/2003/ND-CP

Decision No. 718/2001/QD-BKH dated 7/12/2001 (Article 2, Item 10 of the List)

Commitments of Vietnam

Succinct description of the measure:

Such requirements for exporting at least 80% of products in the above sectors should be eliminated for the investors and investments of Japan, no later than the date when they are eliminated for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose comes into effect, whichever is earlier.

Purpose or Motivation of the Protecting:

Vietnamese enterprises are not competitive domestically and internationally in those sectors. There should be provisions for protection of those sectors for a certain period.

Sector/Matter:

18. Manufacturing and assembling of automobiles

Relevant Obligation:

National Treatment

Prohibition of Performance Requirement

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Decree No. 24/2000/ND-CP

Decree No. 27/2003/ND-CP

Commitments of Vietnam

Succinct Description of the Measure:

1. The Vietnamese Government may apply to the investors of Japan the following formula to calculate localization ratio, or no less favorable formula than the one accorded to the investors of any third country, whichever is more favorable to the investors of Japan:

[Localization Ratio Formula]

$$N = (Z-I)/Z \times 100\% = (1 - I/Z) \times 100\%$$

- **N** (%): localization ratio

- **Z**: CBU (Completely Built Unit) ex-factory price. Z includes costs caused during a production process such as: costs for direct materials; indirect materials; salaries; rewards; fixed expenses; unfixed expenses; profits and all taxes imposed during the production process.

- **I**: Import value (CIF: Cost, Insurance & Freight) (i.e. value of non-Vietnamese parts and materials and value of parts and materials of unspecified origin).

- Calculations include rear body portions as local procurements.

- Localization ratio shall be established for individual companies (weighted average) rather than for individual vehicle models.

2. The investors of Japan shall meet the level of at least 5% local content ratio, no higher than the ratio applied to the ones of any third country. The requirement of local contents shall be removed by the end of 2006, or no later than the date when it is permitted for the ones of any third country, or the date when Vietnam's commitment with any third country to this purpose come into effect, whichever is the earliest.

3. The Vietnamese Government shall pay preferable considerations to the continuous efforts and cooperation by the investors of Japan to localize their products in line with the localization policies set forth by the Vietnamese Government.

Purpose or Motivation of the Protecting:

To increase the Vietnamese value of the products

Sector/Matter:

19. Distribution services

Wholesale and retail sales services; agent services excluding agent services for foreign legal persons; franchising services

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Decree No. 24/2000/ND-CP (Item 4 Part IV Annex I)

Decree No. 27/2003/ND-CP (Item 4 Part IV Annex I)

Succinct Description of the Measure:

- (a) The joint ventures of Japan with Vietnamese partners shall be permitted no later than the date when they are permitted, for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier. The capital contribution of Japanese side may not exceed 49% of legal capital of the joint venture.
- (b) Such limitations on the percentage of the legal capital above-mentioned shall be abolished no later than the date when they are abolished for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.
- (c) The investors of Japan shall be allowed to establish 100% Japan-invested enterprises engaging in distribution services no later than the date when it is permitted for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is earlier.
- (d) Notwithstanding, foreign investors are not allowed to do business in distribution services of the following products: oil and oil derivatives; gas; fertilizer; pesticides;

beer; alcohol; cigarettes and cigars; medicines; precious metal and stones; explosive substance; rice and wheat flour.

Purpose or Motivation of the Protecting:

For the purpose of protecting distribution right of Vietnamese enterprises.

Sector/Matter:

20. Electricity and domestic air transport

Relevant Obligation:

National treatment

Legal source or authority of the Measure:

Law on Foreign investment in Vietnam

Decision No 124/2002/QĐ-TTg dated September 20, 2002 on electricity price (Annex Part)

Circular No. 03/2002/TT-BCN dated September 25, 2002 guiding the implementation of electricity price (Item 5 Part III)

Succinct Description of the Measure:

Vietnam must eliminate the differences of prices and fees applied to domestic and foreign-invested enterprises in respect of prices and fees of electricity and domestic air transport no later than the end of Year 2004, or the date when they are eliminated for the ones of any third country, or the date when Vietnam's commitments with any third country to this purpose come into effect, whichever is the earliest.

Purpose or Motivation of the Protecting:

For the purpose of protecting domestic enterprises, which still subsidised by the Vietnamese Government.