

IMPLEMENTING AGREEMENT BETWEEN THE GOVERNMENT OF JAPAN  
AND THE GOVERNMENT OF THE REPUBLIC OF INDIA  
PURSUANT TO ARTICLE 13  
OF THE COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT  
BETWEEN JAPAN AND THE REPUBLIC OF INDIA

Table of Contents

Preamble	
Chapter 1	General Provisions
Article 1	Definitions
Chapter 2	Customs Procedures
Article 2	Mutual Assistance and Cooperation
Article 3	Information and Communications Technology
Article 4	Risk Management
Article 5	Enforcement against Illicit Trafficking
Article 6	Intellectual Property Rights
Article 7	Exchange of Information
Article 8	Procedures on the Request for Information
Article 9	Exchange of Customs Data
Article 10	Consult Documents
Article 11	Surveillance
Article 12	Presence at the Inquiry
Article 13	Sub-Committee on Customs Procedures
Chapter 3	Improvement of Business Environment
Article 14	Sub-Committee on Improvement of Business Environment
Article 15	Consultative Group
Article 16	Liaison Office
Chapter 4	Cooperation
Article 17	Scope and Forms of Cooperation
Article 18	Environment
Article 19	Trade and Investment Promotion

Article 20	Infrastructure
Article 21	Information and Communications Technology
Article 22	Science and Technology
Article 23	Energy
Article 24	Tourism
Article 25	Textile
Article 26	Small and Medium Enterprises
Article 27	Health
Article 28	Entertainment and Information
Article 29	Metallurgy
Chapter 5	Final Provisions
Article 30	Implementation
Article 31	Table of Contents and Headings
Article 32	Amendment
Article 33	Entry into Force
Article 34	Dispute Settlement

Preamble

The Government of Japan and the Government of the Republic of India,

In accordance with Article 13 of the Comprehensive Economic Partnership Agreement between Japan and the Republic of India (hereinafter referred to as "the Basic Agreement"),

HAVE AGREED as follows:

Chapter 1  
General Provisions

Article 1  
Definitions

For the purposes of this Agreement:

- (a) the term "Countries" means Japan and the Republic of India (hereinafter referred to as "India"), and "Country" means either Japan or India; and
- (b) the term "Parties" means the Government of Japan and the Government of India, and the term "Party" means either the Government of Japan or the Government of India.

Chapter 2  
Customs Procedures

Article 2  
Mutual Assistance and Cooperation

1. The Parties shall provide each other through their customs authorities, either on request or on their own initiative, with information necessary to ensure proper application of customs laws and to prevent, investigate and repress customs offence, that is to say, any violation or attempted violation of customs laws (hereinafter referred to in this Chapter as "customs offence"). To this effect, the customs authorities of the Parties (hereinafter referred to in this Chapter as "the customs authorities") shall, upon request, provide each other, among others, information relating to transportation and shipment of goods showing value, disposition, and destination of those goods.

2. The customs authorities, in cooperation with other national authorities of the respective Parties where necessary, shall cooperate and exchange information in their enforcement against customs offence.

3. The Parties shall cooperate through their customs authorities, when necessary and appropriate, in the area of research, development, and testing of new customs procedures and new enforcement aids and techniques, training activities of customs officers, and exchange of personnel between them.

4. (a) The requested authority shall provide the requesting authority with the following information:

(i) whether goods imported into the customs territory of the country of the requesting authority have been lawfully exported from the customs territory of the country of the requested authority; or

- (ii) whether goods exported from the customs territory of the country of the requesting authority have been lawfully imported into the customs territory of the country of the requested authority.
- (b) The information provided pursuant to subparagraph (a) shall, upon request, contain the customs procedure used for clearing the goods.

Article 3  
Information and Communications Technology

1. The customs authorities shall make cooperative efforts to promote the use of information and communications technology in their customs procedures.
2. The customs authorities shall exchange information, including best practices, on the use of information and communications technology for the purpose of improving customs procedures.

Article 4  
Risk Management

1. In order to facilitate customs clearance of goods traded between the Countries, the customs authorities shall adopt and maintain risk management.
2. The Parties shall endeavour to promote the use of risk management and the improvement of risk management techniques.
3. The customs authorities shall exchange information, including best practices, on risk management techniques and other enforcement techniques.

Article 5  
Enforcement against Illicit Trafficking

1. The customs authorities, in cooperation with other national authorities of the respective Parties where necessary, shall cooperate and exchange information in their enforcement against the trafficking of illicit drugs and other prohibited goods at their customs checkpoints.

2. The Parties shall endeavour to promote regional cooperation under the Customs Co-operation Council in fighting trafficking of illicit drugs and other prohibited goods at their customs checkpoints.

Article 6  
Intellectual Property Rights

The customs authorities shall, subject to the laws and regulations of their respective Countries and within their competence, cooperate and exchange information in their enforcement against the trading of goods suspected of infringing intellectual property rights.

Article 7  
Exchange of Information

1. Information provided by the customs authority of a Party to the customs authority of the other Party pursuant to this Chapter shall be used only by the latter for the discharge of its functions under its Country's customs laws unless the former has expressly approved in writing its use by other national authorities of the other Party.

2. Notwithstanding paragraph 1, unless otherwise notified by the customs authority providing the information, the customs authority receiving the information may provide the information received pursuant to this Chapter to the relevant law enforcement agencies of its Country, which may use such information under the conditions set out in paragraphs 3 through 6.

3. Information provided pursuant to this Chapter shall not be used by the Party that receives information in criminal proceedings carried out by a court or a judge.

4. In the event that information communicated by a Party to the other Party pursuant to this Chapter is needed for presentation to a court or a judge in criminal proceedings, the other Party shall submit a request for such information to the former Party through the diplomatic channel or other channels established in accordance with the laws and regulations of the Country of the former Party. The former Party will make its best efforts to respond promptly and favourably to meet any reasonable deadlines indicated by the other Party.

5. Each Party shall maintain the confidentiality of any information communicated to it in confidence by the other Party pursuant to this Chapter, and shall grant at least the same level of protection under the laws and regulations of the Country of the other Party, unless the other Party consents to the disclosure of such information.

6. Without prejudice to the provisions of paragraph 5, recipients of the information in the requesting authority and other national authorities referred to in paragraph 1 shall be limited to their officials, and such information shall not be disclosed to any person other than such officials.

7. Information received by the customs authority pursuant to this Chapter may be used subject to paragraph 1 in administrative proceedings related to customs offense.

8. Each Party may limit the information it communicates to the other Party when the other Party is unable to give the assurance requested by the former Party with respect to the maintenance of confidentiality or the limitations of purposes for which the information will be used.

9. If a Party that requests information would be unable to comply with a similar request in case such a request were made by the other Party, the former Party shall draw attention to that fact in its request. Execution of such a request shall be at the discretion of the other Party.

10. Notwithstanding any other provisions of this Chapter, a Party shall not be required to communicate information to the other Party if such communication is prohibited by the laws and regulations of the Country of the former Party.

Article 8  
Procedures on the Request for Information

1. Requests for information pursuant to paragraph 1 of Article 2 shall:

- (a) be made in writing in English. When the urgency of the situation so requires, requests may be made and accepted in other forms, including oral requests, but shall be promptly confirmed in writing; and
- (b) specify the following:
  - (i) the customs authority of the Party making the request;
  - (ii) the nature of the proceedings in respect of which the request is made;
  - (iii) the object and the reason for the request;
  - (iv) the names and addresses of the persons to whom the request relates, if known; and
  - (v) a brief description of the matter under consideration and the legal elements involved.

2. In the event that a request cannot be executed, the customs authority of the requesting Party shall be promptly notified of that fact, and provided a statement of the reasons for postponement or denial of the request.

3. Unless otherwise agreed between the Parties, the information provided pursuant to paragraph 1 of Article 2 shall be directly communicated between officials designated by the respective customs authorities.

4. Practical arrangements for the implementation of this Article shall be determined by the Sub-Committee on Customs Procedures.

Article 9  
Exchange of Customs Data

1. The customs authorities shall endeavour to organise and conduct on a regular basis the exchange of trade statistics data between them relating to the customs clearance of goods and conveyances related to goods, exported from a Country to the other Country.

2. The Sub-Committee on Customs Procedures shall discuss in detail and decide practical arrangements for the exchange of trade statistics data including technical specification of information interface and the data processing and transmission technology, specifying data elements for the exchange, protection and confidentiality of information exchanged and any other aspects relevant to such data exchange.

Article 10  
Consult Documents

Officials specially designated by the requesting authority may, with the consent of and subject to the conditions imposed by the requested authority, consult, in the offices of the requested authority, the relevant books, registers, and other documents or data media maintained in those offices and take copies of relevant parts of such books, registers, and other documents or data media.

Article 11  
Surveillance

The requested authority shall, within the limits of its available resources, provide information on and exercise special surveillance of:

- (a) persons known to, or suspected by the requesting authority to have committed a customs offence within the customs territory of the Country of the requesting authority, particularly those who move into and out of the customs territory of the Country of the requested authority;

- (b) goods either in transport or in storage notified by the requesting authority as suspicious of any controlled items to be transported towards the customs territory of the Country of the requesting authority; or
- (c) means of transport suspected by the requesting authority of having been used to commit a customs offence within the customs territory of the Country of the requesting authority.

#### Article 12

##### Presence at the Inquiry

If the requested authority agrees to the request of the requesting authority, officials specially designated by the requesting authority may, subject to the conditions imposed by the requested authority, be present at the inquiry conducted by the requested authority in the customs territory of the Country of the requested Party.

#### Article 13

##### Sub-Committee on Customs Procedures

1. Pursuant to Article 49 of the Basic Agreement, the Sub-Committee on Customs Procedures (hereinafter referred to in this Article as "the Sub-Committee") shall comprise:

- (a) an official from the Ministry of Finance of Japan and an official from the Central Board of Excise and Customs of India, as co-chairs;
- (b) for India, officials from the Central Board of Excise and Customs, and other government officials who may be included on an *ad hoc* basis with the necessary expertise relevant to the issues to be discussed; and
- (c) for Japan, officials from the Ministry of Finance and the Ministry of Foreign Affairs, and other government officials who may be included on an *ad hoc* basis with the necessary expertise relevant to the issues to be discussed.

2. The Sub-Committee may, by mutual consent of the Parties, invite representatives of relevant entities other than the Parties with the necessary expertise relevant to the issues to be discussed.

Chapter 3  
Improvement of Business Environment

Article 14  
Sub-Committee on Improvement of Business Environment

1. The issues to be addressed by the Sub-Committee on Improvement of Business Environment (hereinafter referred to in this Chapter as "the Sub-Committee") referred to in subparagraph 2(b) of Article 124 of the Basic Agreement may include:

- (a) improvement of transparency in business related rules, regulations, administrative and judicial procedures, and administrative and judicial decisions;
- (b) measures to simplify and expedite administrative procedures;
- (c) ways to facilitate business activities in both Countries; and
- (d) other issues related to business environment.

2. The manner of cooperation by the Sub-Committee with other relevant Sub-Committees referred to in paragraph 5 of Article 124 of the Basic Agreement may include:

- (a) conveying the result of the meetings of the Sub-Committee to those other relevant Sub-Committees;
- (b) seeking opinions and recommendations from those other relevant Sub-Committees; and
- (c) inviting to the meetings of the Sub-Committee members of those other relevant Sub-Committees for consultation.

Article 15  
Consultative Group

1. The Consultative Groups established pursuant to paragraph 1 of Article 125 of the Basic Agreement shall be composed of:

- (a) in case of the Consultative Group in India, representatives of the relevant authorities of the Government of India and the Embassy of Japan in India; and
- (b) in case of the Consultative Group in Japan, representatives of the relevant authorities of the Government of Japan and the Embassy of India in Japan.

2. Each Consultative Group may, where appropriate, invite:

- (a) in case of the Consultative Group in India, representatives of Japan External Trade Organization, the Japanese Chamber of Commerce and Industry in India, Inc., other relevant entities of Japanese private sector, and the relevant local governments of India; and
- (b) in case of the Consultative Group in Japan, representatives of relevant entities of Japanese and Indian private sector.

3. The functions of each Consultative Group shall be:

- (a) discussing ways and means to improve the business environment of the Country in which the Consultative Group is established, taking into account, as necessary, the findings reported by the Liaison Office pursuant to subparagraph 1(e) of Article 16; and
- (b) reporting the findings to the Sub-Committee.

4. Each Consultative Group shall meet at the request of the representatives of either Party in the Consultative Group or under the instructions of the Sub-Committee.

#### Article 16 Liaison Office

1. The functions of the Liaison Office designated in each Country pursuant to paragraph 1 of Article 126 of the Basic Agreement shall be:

- (a) receiving complaints and inquiries from the enterprises of the other Country with regard to the laws, regulations and other measures of the former Country which may adversely affect the business activities of the enterprises of the other Country;
- (b) transmitting the complaints and inquiries referred to in subparagraph (a) to the relevant authorities of the former Country;
- (c) transmitting responses from the relevant authorities of the former Country to the enterprises that filed the complaints and/or made inquiries;
- (d) providing the enterprises referred to in subparagraph (a) with necessary information and advice in collaboration with the relevant authorities of the former Country; and
- (e) reporting the findings to the Sub-Committee and the Consultative Group in the former Country.

2. Notwithstanding paragraph 1, each Party may designate an entity located in the other Country that will facilitate the communications between the Liaison Office of the other Country and the enterprises of the former Country.

3. Paragraphs 1 and 2 shall not be construed as preventing or restricting any contacts made by the enterprises of a Country directly to the relevant authorities of the other Country.

Chapter 4  
Cooperation

Article 17  
Scope and Forms of Cooperation

Pursuant to Article 130 of the Basic Agreement, the scope and forms of cooperation in the mutually identified fields are provided in this Chapter.

Article 18  
Environment

The scope and forms of cooperation in the field of environment with the objective of promoting conservation and improvement of environment may, *inter alia*, include:

- (a) promoting sustainable development and addressing climate change;
- (b) exchanging information, including on policies, laws and regulations;
- (c) promoting human resource development and capacity building;
- (d) enhancing training opportunities;
- (e) encouraging and facilitating exchange of experts and field visits;
- (f) promoting mutually beneficial cooperation in international fora on issues relating to environment; and
- (g) other forms of cooperation to be mutually agreed upon by the Parties.

Article 19  
Trade and Investment Promotion

The scope and forms of cooperation in the field of trade and investment promotion may, *inter alia*, include:

- (a) exchanging and sharing information, including on trade, investment, business-related laws and regulations and business environment of the Countries, through such forms as investment information portals and publications;
- (b) enhancing awareness on trade and investment opportunities and potential by organising and cooperating on sustained trade and investment promotion activities such as trade and investment missions, business seminars, web shows, media interactions and trade fairs;
- (c) exchanging experts and specialists, and setting up expert groups to promote bilateral investment; and
- (d) other forms of cooperation to be mutually agreed upon by the Parties.

Article 20  
Infrastructure

The scope of cooperation in the field of infrastructure may include development of special economic zones, modernisation of airports and other civil aviation infrastructure, expressways, mass rapid transit systems, modernisation of ports and shipping, high speed railways corridors and mega industrial complexes. The forms of cooperation in this Sector may, *inter alia*, include:

- (a) exchanging and sharing information, including on policies, laws and regulations;
- (b) exchanging and sharing expertise and best practices on development and management of infrastructure;
- (c) organisation of publicity events to promote participation in infrastructure sector; and
- (d) other forms of cooperation to be mutually agreed upon by the Parties.

Article 21  
Information and Communications Technology

The scope of cooperation in the field of information and communications technology (hereinafter referred to in this Article as "ICT") may include broadband networks, mobile communications, e-governance, information security and ubiquitous computing. The forms of cooperation in this Sector may, *inter alia*, include:

- (a) exchanging and sharing information, including on policies, laws and regulations;
- (b) promoting cooperation between the public and private sectors;
- (c) promoting consultation and cooperation in international fora on issues relating to ICT; and
- (d) other forms of cooperation to be mutually agreed upon by the Parties.

Article 22  
Science and Technology

The scope of cooperation in the field of science and technology may include nano-science and nano-technology, robotics, biotechnology and natural sciences. The forms of cooperation in this Sector may, *inter alia*, include:

- (a) encouraging and facilitating exchange of information between research institutions of the Countries through such forms as academic seminars, workshops and forums;
- (b) encouraging joint research and development;
- (c) promoting cooperation in international fora relating to science and technology; and
- (d) other forms of cooperation to be mutually agreed upon by the Parties.

Article 23  
Energy

The scope of cooperation in the field of energy may include hydrocarbon resources, thermal energy (coal), renewable energy, energy transmission, and energy efficiency and conservation. The forms of cooperation in this Sector may, *inter alia*, include:

- (a) exchanging information and sharing experiences;
- (b) promoting cooperation in ensuring energy supplies;
- (c) encouraging joint studies and joint research and development;
- (d) promoting joint ventures between energy companies of the Countries;
- (e) promoting cooperation and coordination in international fora relating to energy; and
- (f) other forms of cooperation to be mutually agreed upon by the Parties.

Article 24  
Tourism

The scope and forms of cooperation in the field of tourism may, *inter alia*, include:

- (a) exchanging information and sharing experiences between tourism bodies of the Countries;
- (b) promoting human resource development, capacity building and technological cooperation in tourism;
- (c) encouraging organisation of familiarisation trips for leading tour operators, travel agencies, and travel media;
- (d) promoting holding of workshops, seminars and jointly organising other activities for the promotion of tourism; and

- (e) other forms of cooperation to be mutually agreed upon by the Parties.

Article 25  
Textile

The scope and forms of cooperation in the field of textiles may, *inter alia*, include:

- (a) encouraging holding of seminars, workshops and conferences for textile cooperation, such as exchanging information, sharing expertise, developing human resource, encouraging investment and joint ventures, and business matching;
- (b) organising and cooperating on market access promotion activities, such as trade fairs and exhibitions; and
- (c) other forms of cooperation to be mutually agreed upon by the Parties.

Article 26  
Small and Medium Enterprises

The scope of cooperation in the field of Small and Medium Enterprises (hereinafter referred to in this Article as "SMEs") may include management, supply and distribution channels and appropriate financial policy relating to SMEs. The forms of cooperation in this Sector may, *inter alia*, include:

- (a) exchanging information and sharing experiences and best practices;
- (b) promoting human resource development and capacity building for SMEs;
- (c) enhancing training opportunities;
- (d) facilitating holding of seminars, workshops, trade fairs, exhibitions, and networking opportunities; and

- (e) other forms of cooperation to be mutually agreed upon by the Parties.

Article 27  
Health

The scope of cooperation in the field of health may include public health, healthcare management, financing and delivery of healthcare, tele-medicine and healthcare technology. The forms of cooperation in this Sector may, *inter alia*, include:

- (a) exchanging information and sharing experiences and expertise, including on healthcare systems and standards;
- (b) promoting human resource development and capacity building for health;
- (c) enhancing training opportunities;
- (d) promoting holding of seminars, workshops and forums;
- (e) encouraging joint research and development and joint projects;
- (f) promoting cooperation, consultation and coordination in international fora on global and regional issues of mutual interest relating to health; and
- (g) other forms of cooperation to be mutually agreed upon by the Parties.

Article 28  
Entertainment and Information

The scope of cooperation in the field of entertainment and information may include film, animation, TV and radio shows, cultural shows and performances and other aspects of the entertainment and information industry. The forms of cooperation in this Sector may, *inter alia*, include:

- (a) exchanging information and sharing experiences and practices between relevant entities of the Countries;
- (b) facilitating holding of workshops, seminars and events in the area of entertainment and information such as film festivals and exhibitions;
- (c) facilitating visits and participation in entertainment and information events held in the other Country;
- (d) encouraging joint productions such as documentaries;
- (e) encouraging organisation of promotional activities to enhance awareness of both Countries' entertainment and information industry;
- (f) encouraging exchange of experts such as journalists, producers and creative artists; and
- (g) other forms of cooperation to be mutually agreed upon by the Parties.

Article 29  
Metallurgy

The scope and forms of cooperation in the field of metallurgy may, *inter alia*, include:

- (a) exchanging information including on standards and sharing experiences;
- (b) establishing linkages and networking among trade and business bodies of the Countries; and
- (c) other forms of cooperation to be mutually agreed upon by the Parties.

Chapter 5  
Final Provisions

Article 30  
Implementation

This Agreement shall be implemented by the Parties in accordance with the Basic Agreement and the laws and regulations in force in their respective Countries, and within the available resources of each Party.

Article 31  
Table of Contents and Headings

The table of contents and headings of the Chapters and Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.

Article 32  
Amendment

This Agreement may be amended by agreement between the Parties. The Parties shall, at the request of a Party, consult with each other as to whether to amend this Agreement.

Article 33  
Entry into Force

This Agreement shall enter into force on the same date as the Basic Agreement and shall remain in force as long as the Basic Agreement remains in force.

Article 34  
Dispute Settlement

Chapter 14 of the Basic Agreement shall apply *mutatis mutandis* with respect to the settlement of disputes between the Parties arising out of the interpretation and/or application of Chapter 2 and this Chapter.

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

DONE at Tokyo on this sixteenth day of February in the year 2011 in duplicate in the English language.

For the Government of  
Japan:

前原誠司

For the Government of  
the Republic of India:

Anand Sharma