

**List of exceptional measures in the
sectors or with respect to the matters
specified in the Annex and Annex**

December 19, 2004

Japan

Annex I

1. Fisheries within the territorial sea, internal waters, exclusive economic zone and continental shelf
2. Explosives manufacturing industry
3. Aircraft industry
4. Arms industry
5. Nuclear energy industry
6. Space industry
7. Electricity utility industry
8. Gas utility industry
9. Broadcasting industry
10. Freight forwarding business industry
11. Financial services (deposit insurance)
12. The maintenance, designation or elimination (including privatisation) of a public monopoly
13. The maintenance, establishment or disposal (including privatisation) of a state enterprise
14. Subsidies
15. Land transaction

Sector/Matter:

Fisheries within the territorial sea, internal waters, exclusive economic zone and continental shelf

Relevant Obligation:

National Treatment

Most-favoured-nation Treatment

Legal source or authority of the Measure:

Law for Regulation of Fishing Operation by Foreign Nations

Law Concerning the Exercise of Sovereign Rights Concerning Fisheries in Exclusive Economic Zone

Succinct Description of the measures:

The following restrictions are applied within the territorial sea and internal waters.

a. Foreign nations and foreign-controlled enterprises are prohibited from engaging in fishing and other related activities.

b. Foreign-controlled fishing vessels are restricted from calling at ports in Japan.

c. Foreign-controlled fishing vessels are restricted from transshipping their fishing catch to other vessels or from loading fishing catch by other foreign-controlled fishing vessels.

d. Foreign-controlled non-fishing vessels are restricted from loading fishing catch by foreign-controlled fishing vessels.

e. Foreign-controlled non-fishing vessels are restricted from unloading fishing catch loaded from foreign-controlled fishing vessels within the outside of territorial sea and internal waters of Japan to ports in Japan or from transshipping it to other vessels at ports in Japan.

f. Foreign-controlled non-fishing vessels are restricted from unloading designated fishes to fishing ports or the fishing port areas in Japan.

The following restriction is applied within the exclusive economic zone.

g. Foreign nations and foreign controlled enterprises shall not conduct fishing and other related activities (including fishery research and marine scientific research which involves catching, taking or exploration of marine animals and/or

plants) unless licensed by Minister of Agriculture, Forestry and Fisheries.

Purpose or Motivation of the Measure:

Depreciation of marine living resources is widely observed in the fishing areas surrounding Japan. Under these circumstances marine living resources in these areas will deteriorate without these measures and this will have detrimental effects on small-scale fishermen of Japan. It should be noted that similar measures are implemented in many nations with respect to fisheries. These measures are also acknowledged as exercises of the sovereign rights and jurisdiction of a coastal state in its exclusive economic zone under United Nations Convention on the Law of the Sea.

Sector/Matter:

Explosive manufacturing industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law

Succinct Description of the measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's explosive manufacturing industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

National Security

Sector/Matter:

Aircraft industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's aircraft industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

National Security

Sector/Matter:

Arms industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's arms industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

National Security

Sector/Matter:

Nuclear energy industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's nuclear energy industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

National Security

Sector/Matter:

Space industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's space industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

National Security

Sector/Matter:

Electricity utility industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's electric utility industry. The foreign investor that has provided that advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

Public Order, National Security

Sector/Matter:

Gas utility industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's gas utility industry. The foreign investor that has provided that advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

Public Order, National Security

Sector/Matter:

Broadcasting industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Radio Law (Article 5)

Broadcasting Law (Article 52-8, 52-13)

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

(Radio Law and Broadcasting Law)

Broadcasting station licenses and approval for program supplying broadcast business shall not be granted to the following:

i) a person who does not have Japanese nationality:

ii) a foreign government or its representative:

iii) a foreign juridical person or association: or

iv) a juridical person or association, whose activities are executed by an officer who is a person or body referred to in the preceding three items, or one fifth or more of whose voting rights is occupied by the aggregate of voting rights held by such persons or bodies. (In case of facility supplying broadcaster, those which are represented by such persons or bodies, one third or more of whose officers are such persons, or one third or more of whose voting rights is occupied by the aggregate of voting rights held by such persons or bodies.)

In addition, a private broadcaster which is the company issuing those shares listed in the Stock Exchange may, in the case where requested by those persons mentioned in the above i) to iii) items to enter their names and dwellings in the shareholders list, refuse entering thereof, if meeting the request causes the situation which comes under the provisions of above item iv).

(Foreign Exchange and Foreign Trade Law)

According to the Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in broadcasting industry (including Cable Broadcasting industry). The foreign investor that has provided the advance notice must not execute the direct

domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

The regulation of foreign capital participation and officer on broadcasters shall be maintained on the ground that broadcasting provides speech and expression activities to the public by utilizing a limited resource of frequency and has great influence on national policies, society and culture, which is deeply related to the formation of public opinion, public order and national safety.

Sector/Matter:

Freight forwarding business industry

Relevant Obligation:

National Treatment

Most-favored-nation Treatment

Legal source or authority of the Measure:

Freight Forwarding Business Law (Article 5, 26)

Succinct Description of the Measures:

According to the Freight Forwarding Business Law, foreigners, enterprises of which more than one-third of the voting rights are held by foreigners, one of whose representatives is foreigner, more than one-third of members of whose board of directors are foreigner, are prohibited to engage in air freight forwarding business using air transportation between any pair of points in Japan.

Purpose or Motivation of the Measure:

National Security (To reserve cabotage substantially for Japanese aircraft)

Sector/Matter:

Financial services (deposit insurance)

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Deposit Insurance Law (Article 2)

Succinct Description of the Measures:

The deposit insurance system only covers financial institutions which have their head offices within the jurisdiction of Japan.

Purpose or Motivation of the Measure:

Branches of foreign banks in Japan are not covered by the Deposit Insurance Law, mainly because jurisdictional problems might hinder Japanese authorities in taking prompt and appropriate action against them at the time of resolution of failed financial institutions.

Sector/Matter:

Land transaction

Relevant Obligation:

National Treatment

Most-favored-nation Treatment

Legal source or authority of the Measure:

Alien Land Law (Article 1)

Succinct Description of the Measures:

With respect to acquisition or lease of land properties in Japan, prohibitions or restrictions may be imposed by Cabinet Ordinances on Vietnamese nationals or entities, where Japanese nationals or entities are placed under identical or similar prohibitions or restrictions in Viet Nam.

Purpose or Motivation of the Measure:

National Security

Annex II

1. Primary industry related to agriculture, forestry and fisheries (except those covered by Annex I)
2. Mining industry
3. Oil industry
4. Biological preparations manufacturing industry
5. Leather and leather products manufacturing industry
6. Heat supply industry
7. Water supply and waterworks industry
8. Telecommunications industry
9. Railway transport industry
10. Omnibus industry
11. Water transport industry
12. Air transport industry
13. Security industry
14. Registration of aircraft in the national register and matters arising from such registration
15. Matters related to or arising from the nationality of ship, and the acquisition of ship or of any interest in ship

Sector/Matter:

Primary industry related to agriculture, forestry and fisheries (except those covered by Annex I)

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct investment in Japan's primary industry related to agriculture, forestry and fisheries. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council, and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

In Japan, primary industry related to agriculture, forestry and fisheries encompasses a great number of small-scale producers due to natural, economic, and social conditions. The production activity of primary industry is mainly being promoted by cooperative systems of the producers. Under the present circumstances, direct investment in primary industry requires careful examination so as not to undermine the implementation of supply control measures for agricultural products and to ensure the conservation of land and water resources, the maintenance of forest resources, and the perpetuation of arrangements regarding various fishing restrictions.

Sector/Matter:

Mining industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Mining Law (Article 17)

Succinct Description of the measures:

Entities other than a Japanese national or a Japanese corporation are not allowed to have the legal rights of a mining industry.

Purpose or Motivation of the Measure:

At present, similar to the mining industry situation in many foreign countries, all of Japan's mineral resources are considered national assets. The improvement of Japan's current economic development and national lifestyle is largely based on natural mineral resources. Although Japan's natural resources are largely imported, domestic mines provide an extremely stable resource supply and their role has not been ignored. With the entry of huge overseas investment into Japan there is a probability that foreign industry may control the domestic mining industry thereby causing great losses to the base of Japan's natural resource measures which protect the stable supply of natural resources.

Sector/Matter:

Oil industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Mining Law (Article 17)

Succinct Description of the Measures:

(Foreign Exchange and Foreign Trade Law)

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's oil industry. The foreign investor that has provided that advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

(Mining Law)

Entities other than a Japanese national or a Japanese corporation are not allowed to have the legal rights of a mining industry.

Purpose or Motivation of the Measure:

Oil accounts for approximately 50 per cent of Japan's primary energy supply. It is indispensable for the improvement of the standard of living and development of the economy of Japan and thus valued as inseparable from Japan's economic security. However, Japan imports almost all of oil consumption, the foundation of Japan's oil supply is remarkably fragile in comparison with those of the other industrial countries.

Therefore, it is necessary to treat the direct domestic investment in the oil industry carefully on a case-by-case basis, taking into account relevant factors such

as 1) the stable supply of oil in case of emergency, 2) the effect on the structural reform of the Japanese oil industry, and 3) accessibility of Japanese companies to the country of the company planning to invest in Japan (reciprocity).

Sector/Matter:

Biological preparations manufacturing industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's biological preparations manufacturing industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

To protect public order and essential industry

Sector/Matter:

Leather and leather products manufacturing industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's leather and leather products manufacturing industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

Japan's leather and leather products manufacturing industry is an important industry in certain regions. With a fragile management foundation, most of the enterprises in this industry are small-scale, family-run companies, so they are much poorer in terms of capital and technology than similar industries in other countries. Thus Japan's leather and leather products manufacturing industry lacks competitiveness not only in the international market but also in the domestic one, and therefore, it needs to be protected by government regulations.

Sector/Matter:

Heat supply industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's heat supply industry. The foreign investor that has provided that advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

Public Order, National Security

Sector/Matter:

Water supply, waterworks industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange Law and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct investment in Japan's water supply and waterworks industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

Waterworks is one of the critically basic infrastructures, thus potentially influencing the public order. Therefore, it is essential to investigate the effect of foreign investments for maintaining the stable water supply in Japan.

Sector/Matter:

Telecommunications industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's Type 1 telecommunications business (including business operated by NTT and business entrusted by Type 1 telecommunications activities). The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

Considering that Type 1 telecommunication business is an important public utility to support our country, people's life and social and economic activities, it is necessary to prevent the company from being excessively affected by foreign participation and maintain its independence of management in order to secure our country, national safety and public order.

Sector/Matter:

Telecommunications industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

The Law Concerning Nippon Telegraph and Telephone Corporation, etc.
(Article 6)

Succinct Description of the Measures:

1. Nippon Telegraph and Telephone Corporation (NTT) shall not enter name and address in its register of shareholders if the aggregate of the ratio of the voting rights directly and/or indirectly held by the persons set forth in item i) through iii) reaches or exceeds one third:

- i) a person who does not have Japanese nationality:
- ii) a foreign government or its representative: or
- iii) a foreign juridical person or association

2. NTT shall always hold all shares of the Regional Companies.

Purpose or Motivation of the Measure:

Considering the present status that NTT and the Regional Companies have an important role as in telecommunication sector to support our country, people's life and social and economic activities, it is appropriate to prevent the company from being excessively affected by foreign participation and maintain its independence of management in order to secure our country, national safety and public order.

Sector/Matter:

Telecommunications industry

Relevant Obligation:

Performance Requirement

National Treatment

Legal source or authority of the Measure:

The Law Concerning Nippon Telegraph and Telephone Corporation etc.
(Article 10)

Succinct Description of the Measures:

Any person who does not have Japanese nationality shall not assume the office of director or auditor of NTT and the Regional Companies.

Purpose or Motivation of the Measure:

Considering the present status that NTT and the Regional Companies have an important role as in telecommunication sector to support our country, people's life and social and economic activities, it is appropriate to prevent the company from being excessively affected by foreign participation and maintain its independence of management in order to secure our country, national safety and public order.

Sector/Matter:

Railway transport industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's railway transport industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation of the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

Public Order

Sector/Matter:

Omnibus industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's omnibus industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

Public Order

Sector/Matter:

Water transport industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's coastwise and inland waterways ship leasing industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council, and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

Public order and essential security interests

Sector/Matter:

Air transport industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's air transport industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

Public order and essential security interests

Sector/Matter:

Air transport industry

Relevant Obligation:

Performance Requirement

National Treatment

Legal source or authority of the Measure:

Civil Aeronautics Law (Article 101, 120)

Succinct Description of the Measures:

A permission of operating an air transport business are granted only when applicant's chief executive and more than two-thirds of its board members are Japanese citizens and that more than two-thirds of voting stocks are held by Japanese citizens or Japanese juridical persons. And, even after permission is obtained, if air carriers are unable to keep these conditions of stock possession and nationality, the permission is disappeared.

Purpose or Motivation of the Measure:

National Security

Sector/Matter:

Air transport industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Civil Aeronautics Law (Paragraph 1 of Article 120-2)

Succinct Description of the Measures:

Air carriers can reject the request from any person who obtained stocks prescribed under subparagraph (1) through (3) of paragraph 1 of Article 4 of the Civil Aeronautics Law to enter the stockholders list in case that they can't keep the condition of the rate of voting-stock possession and nationality in accordance with the article 4 paragraph 1 of Civil Aeronautics Law by accepting such request.

Purpose or Motivation of the Measure:

To maintain the condition of the rate of voting-stock possession and nationality in accordance with the article 4 paragraph 1 of Civil Aeronautics Law and protect it from stock dealings.

(For the sake of ensuring national security:

Domestic air carriers should maintain nationality of a certain state substantially and should be protected and be controlled effectively by the administration under the state's civil aeronautics law.

It should also noted that this idea of restricting foreign investment in the field of domestic air transportation services business is well accepted among the member states of the multilateral convention.)

Sector/Matter:

Air transport industry

Relevant Obligation:

National Treatment

Most-Favoured-Nation Treatment

Legal source or authority of the Measure:

Civil Aeronautics Law (Article 129)

Succinct Description of the Measures:

According to the Civil Aeronautics Law, foreign air carriers are required to obtain permissions from the Minister of Land, Infrastructure and Transport when they establish and operate international air transport services to/from Japan.

Purpose or Motivation of the Measure:

National Security

Sector/Matter:

Air transport industry

Relevant Obligation:

National Treatment

Most-Favoured-Nation Treatment

Legal source or authority of the Measure:

Civil Aeronautics Law (Article 127, 130)

Succinct Description of the Measures:

According to the Civil Aeronautics Law, foreign air carriers are prohibited to provide transport services between any pair of points in Japan.

Purpose or Motivation of the Measure:

National Security

Sector/Matter:

Air transport industry

Relevant Obligation:

National Treatment

Most-Favoured-Nation Treatment

Legal source or authority of the Measure:

Civil Aeronautics Law (Article 130-2)

Succinct Description of the Measures:

According to the Civil Aeronautics Law, foreign aircraft are required to obtain permissions from the Minister of Land, Infrastructure and Transport when they are engaged in remunerative transportation of passengers or cargo to/from Japan.

Purpose or Motivation of the Measure:

National Security

Sector/Matter:

Security industry

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Foreign Exchange and Foreign Trade Law (Article 27)

Succinct Description of the Measures:

According to the Foreign Exchange and Foreign Trade Law, advance notice to the competent agency is required from foreign investors who plan to make direct domestic investment in Japan's security industry. The foreign investor that has provided the advance notice must not execute the direct domestic investment named in the notice until 30 days (or two weeks in some shortened time frame) have elapsed from the date that the notice has been received. If the competent agency finds a problem with the result of the evaluation or the contents of the notice, it may request an opinion from the Foreign Exchange Council and may order the foreign investor to change the contents of the notice or to stop the investment.

Purpose or Motivation of the Measure:

In Japan, airports, atomic power plants, and government and municipal offices are guarded not by army, but by security companies. So it is necessary that direct investment in the security industry requires careful examination so as to judge whether the direct investment does harm to public order or public security.

Sector/Matter:

Registration of aircraft in the national register and matters arising from such registration

Relevant Obligation:

Performance Requirement
National Treatment

Legal source or authority of the Measure:

Civil Aeronautics Law (Article 4)

(This Article is quoted in paragraph 1 of Article 101 of the Civil Aeronautics Law and also applied to the permission of Air carriers.)

Succinct Description of the Measures:

Foreigners, enterprises of which more than one-third of the voting stocks are held by foreigners and their representatives and more than one-third of members of the board of directors are foreigners are not permitted to register their aircraft.

Purpose or Motivation of the Measure:

According to the international law, aircraft should have nationality of a state and should be protect by and be controlled under the state's law.

Sector/Matter:

Matters related to or arising from the nationality of ship, and the acquisition of ship or of any interest in ship

Relevant Obligation:

Performance Requirement

National Treatment

Legal source or authority of the Measure:

Ship Law (Article 1)

Succinct Description of the Measures:

The conditions for acquiring ship's nationality in Japan are the citizenship of owners. This regulation prevents ships not flying Japanese flag from entering into Japanese ports not open to foreign commerce and from carrying cargoes or passengers between Japanese ports.

Purpose or Motivation of the Measure:

Every state grants its nationality to ships, registers ships in its territory and grants right to fly its flag in order that every state effectively exercises its jurisdiction and control in administrative, technical and social matters over the ships flying its flag.

Therefore Japanese government requests the Japanese citizenship for the owners of the ships having Japanese nationality.

Sector/Matter:

Matters related to or arising from the nationality of ship, and the acquisition of ship or of any interest in ship

Relevant Obligation:

National Treatment

Legal source or authority of the Measure:

Ship Law (Article 3)

Succinct Description of the Measures:

According to the Ship Law Article 3, calling at any ports not open to foreign commerce and navigation of other than Japanese ship or transport of goods or passengers between Japanese ports are restricted.

Purpose or Motivation of the Measure:

National security and maintenance of domestic safety transport system