

Annex 8  
Referred to in Chapter 8

Reservations for Measures  
referred to in paragraph 1 of Article 90

Part 1  
Schedule of India

1. The Schedule of India sets out, pursuant to paragraph 1 of Article 90, the reservations taken by India with respect to existing measures that do not conform with obligations imposed by:

- (a) Article 85;
- (b) Article 86; or
- (c) Article 89.

2. Each reservation sets out the following elements:

- (a) "Sector" refers to the general sector in which the reservation is taken;
- (b) "Sub-Sector" refers to the specific sector in which the reservation is taken;
- (c) "Industry Classification" refers, where applicable, and only for transparency purposes, to the activity covered by the reservation according to domestic or international industry classification codes;
- (d) "Type of Reservation" specifies the obligations referred to in paragraph 1 for which the reservation is taken;
- (e) "Measures" identifies the existing laws, regulations or other measures for which the reservation is taken. A measure cited in the "Measures" element:

- (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and
- (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
- (f) "Description" sets out, with regard to the obligations referred to in paragraph 1, the non-conforming aspects of the existing measures for which the reservation is taken.

3. In the interpretation of a reservation, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of Chapter 8 against which the reservation is taken, and the "Measures" element shall prevail over all other elements.

4. For the purposes of this Part:

- (a) the term "ISIC" means the International Standard Industrial Classification of All Economic Activities adopted, at its seventh session on August 27, 1948 and revised on May 22, 1989, by the Economic and Social Council of the United Nations; and
- (b) the term "NIC" means National Industrial Classification Code, 1987 as set out by the Central Statistical Organisation of the Government of India.

1 Sector: All Sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.

Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.

Press Notes and Circulars on FDI Policy issued by the Central Government.

The Companies Act, 1956 and all regulations/rules/orders issued thereunder.

Indian company means a company incorporated in India under the Indian Companies Act, 1956.

Description: A person resident outside India, including an entity incorporated outside India, can purchase shares of an Indian company under the FDI Scheme.

There are separate regulatory treatment provided to Foreign Institutional Investors (FIIs) and Venture Capital Funds in relation to investment in Indian Companies, which may be modified from time to time.

FDI is not permitted in Indian partnerships and any association of persons (which would include societies and trusts) except upon obtaining the prior consent of the Reserve Bank of India for such investment.

When the total holdings of FIIs/Non Resident Indians (NRIs) under the Scheme reach the trigger limit, which is 2 percent below the applicable limit (for companies with paid-up capital of Rs. 1000 crores and above, the trigger limit is 0.5 percent below the applicable limit), Reserve Bank will issue a notice to all designated branches of banks cautioning that any further purchases of shares of the particular Indian company will require prior approval of Reserve Bank. Reserve Bank gives case-by-case approvals to FIIs for purchase of shares of companies included in the Caution List. This is done on a first-come-first-served basis. Once the shareholding by FIIs/NRIs reaches the overall ceiling/sectoral cap/statutory limit, Reserve Bank puts the company on the Ban List. Once a company is placed on the Ban List, no FII or NRI can purchase the shares of the company under the Portfolio Investment Scheme.

2 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment  
(Article 86)

Measures: Article 73 of the Constitution of  
India read with Article 246 of the  
Constitution of India.  
  
Foreign Exchange Management Act, 1999  
and all regulations/rules/orders  
issued thereunder.  
  
Press Notes and Circulars on FDI  
Policy issued by the Central  
Government.

Description: Prior approval of the Government will  
be required even for investments  
covered under the automatic route, if  
the foreign investor has an existing  
joint venture or trademark/technical  
collaboration agreement in India as on  
12.1.2005 in the same field. The same  
field is determined by the 4-digit  
National Industrial Code, 1987. If the  
proposed investment is in an activity  
that has the same NIC Code  
classification as that of the existing  
joint venture or technical  
collaboration, then these limitations  
will be applicable.

This is not applicable in the  
following circumstances:

- (a) investments made by Venture  
Capital Funds registered with  
Securities Exchange Board of  
India (SEBI)

- (b) where in the existing joint venture investment by either of the parties is less than 3 percent
- (c) where the existing venture/collaboration is defunct or sick
- (d) investment into Information Technology sector, mining sector subject to furnishing of declaration that the proposed/new Wholly Owned Subsidiary (WOS)/Joint Venture (JV) is not for same area/mineral
- (e) investment by multinational financial institutions.

3 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment  
(Article 86)

Measures: Article 73 of the Constitution of  
India read with Article 246 of the  
Constitution of India.

Foreign Exchange Management Act, 1999  
and all regulations/rules/orders  
issued thereunder.

Press Notes and Circulars on FDI  
Policy issued by the Central  
Government.

Industries (Development and  
Regulation) Act, 1951 and all  
regulations/rules/orders issued  
thereunder.

Reserve Bank of India Act, 1934 and  
all regulations/rules/orders issued  
thereunder.

Banking Regulation Act, 1949 and all  
regulations/rules/orders issued  
thereunder.

Income Tax Act, 1961 and all  
regulations/rules/orders issued  
thereunder.

Securities and Exchange Board of India  
Act, 1992 and all  
regulations/rules/orders issued  
thereunder.

Foreign Contribution (Regulation) Act,  
1976 and all regulations/rules/orders  
issued thereunder.

Foreign Trade (Development and Regulation) Act, 1976 and all regulations/rules/orders issued thereunder.

Securities Contracts (Regulation) Act, 1956 and all regulations/rules/orders issued thereunder.

Prevention of Money Laundering Act, 2002 and all regulations/rules/orders issued thereunder.

Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 and all regulations/rules/orders issued thereunder.

Customs Act, 1962 and all regulations/rules/orders issued thereunder.

Customs Tariff Act, 1975 and all regulations/rules/orders issued thereunder.

Central Excise Act, 1944 and all regulations/rules/orders issued thereunder.

Central Excise Tariff Act, 1985 and all regulations/rules/orders issued thereunder.

Additional Duties of Excise (Textiles and Textiles Articles) Act, 1978 and all regulations/rules/orders issued thereunder.

Bureau of Indian Standards Act, 1986 and all regulations/rules/orders issued thereunder.

Environment Protection Act, 1986 and all regulations/rules/orders issued thereunder.



Description: The Central Government may, in public interest, suspend or relax permission granted or restriction imposed by the Foreign Exchange Management Act, 1999 (FEMA, 1999), by notification specifying the duration of such suspension.

The Central Government may from time to time give general or special directions as it thinks fit, to the Reserve Bank of India in the discharge of functions with relation to administration of the FEMA, 1999.

Where a company contravenes any of the provisions of the FEMA, 1999, or any rule, direction or order made thereunder, the company and every person who at the time the contravention was committed, was in charge of, and was responsible to the company for conduct of the business of the company would be liable to be punished under the provisions of the FEMA, 1999 unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

4 Sector: All Sectors

Sub-Sector: Items reserved for manufacture by Micro, Small and Medium enterprises.

Industry Classification:

Type of Reservation: Prohibition of Performance Requirement (Article 89)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.

Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.

Press Notes and Circulars on FDI Policy issued by the Central Government.

Industries (Development and Regulation) Act, 1951 and all regulations/rules/orders issued thereunder.

Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 and all regulations/rules/orders issued thereunder.

Description: Any industrial undertaking which is not a Micro or Small Scale Enterprise, but manufactures items reserved for the MSE sector, would require Government route where foreign investment is more than 24 percent in the equity capital, subject to conditions such as obtaining of an Industrial Licence under the Industries (Development and Regulation) Act 1951 for such manufacture and the condition that the Industrial Undertaking shall undertake to export a minimum of 50 percent of the new or additional annual production of the MSE reserved items to be achieved within a maximum period of three years.

5 Sector: Atomic Energy

Sub-Sector: Atomic Power Generation  
Manufacturing and supply of nuclear fuel  
Radioactive Waste Treatment and Disposal  
Radio isotope and Radiation Generation Facilities  
Services relating to Nuclear Energy Planning, Maintenance and Repair Services

Industry Classification:

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.  
Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.  
Press Notes and Circulars on FDI Policy issued by the Central Government.  
Industries (Development and Regulation) Act, 1951 and all regulations/rules/orders issued thereunder.  
Atomic Energy Act, 1962 and all regulations/rules/orders issued thereunder.

Description: Foreign direct investment is prohibited in Atomic Energy Sector.

6 Sector: Chit Fund Business, Nidhi, Transferable Development Rights; Agriculture and Plantation (other than Tea Plantation); and Real estate business (other than construction development)

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment  
(Article 86)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.  
Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.  
Press Notes and Circulars on FDI Policy issued by the Central Government.  
Industries (Development and Regulation) Act, 1951 and all regulations/rules/orders issued thereunder.  
Atomic Energy Act, 1962 and all regulations/rules/orders issued thereunder.

Description: No person resident outside India shall make investment in India in any form, in any company or partnership firm or proprietary concern, or any entity, whether incorporated or not which is engaged or proposes to engage:

- (a) in the business of chit fund;
- (b) as Nidhi company;

- (c) in agricultural or plantation activities;
  - (d) in real estate business, or construction of farm houses; or
  - (e) in trading in Transferable Development Rights.
- (a) Chit means a transaction whether called chit, chit fund, chitty, kuri or by any other name which a person enters into an agreement with a specified number of persons that every shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of instalments over a definite period and that each such subscriber shall, in his turn, as demand or by auction or by tender or in such other manner as may be specified in the chit agreement entitled to the prize amount.
- (b) Nidhi or mutual benefit society means a company which the Central Government may by notification in the official gazette declare to be a nidhi company or a mutual benefit society.
- (d) Real estate business (however for the purposes of this limitation, "real estate" does not include development of townships, construction of residential/commercial premises, roads and bridges)
- (e) Transferable Development Rights means certificates issued in respect of category of land acquired for public purposes either by the Central or State Government in consideration of surrender of land by the owner without monetary compensation which are transferable in part or whole.

NRIs are allowed to invest in development of serviced plots, construction of built-up residential premises, investment in real estate covering residential and commercial premises including business centres and offices, development of townships, city and regional level urban infrastructure facilities including roads and bridges, investment in manufacture of building materials, investment in participatory ventures for all of the above; and investment in housing finance institutions without the conditions of minimum capitalisation or minimum area for development or lock-in of investment.

7 Sector: Manufacturing of Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes

Sub-Sector:

Industry Classification: NIC: 22  
ISIC: 12

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.

Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.

Press Notes and Circulars on FDI Policy issued by the Central Government.

Companies Act, 1956 and all regulations/rules/orders issued thereunder.

Industries (Development and Regulation) Act, 1951 and all regulations/rules/orders issued thereunder.

Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 and all regulations/rules/orders issued thereunder.

Description: FDI in manufacture of 'Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes' (Code 24.02 of Indian Trade Classification which follows the Harmonised Commodity Description and Coding System) is prohibited.



8 Sector: Gambling, Betting, Lottery

Sub-Sector:

Industry Classification: NIC: 84  
ISIC: 92

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.

Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.

Press Notes and Circulars on FDI Policy issued by the Central Government.

Description: No person resident outside India shall make investment in India in any form, in any company or partnership firm or proprietary concern, or any entity, whether incorporated or not which is engaged or proposes to engage in lottery business (including Government/private lottery, online lotteries, etc.), gambling and betting including casinos etc.

Foreign technology collaboration or use of franchise/trademark/brand name of foreign collaborator, or management contract, etc. is not permitted in lottery business, gambling and betting. This includes foreign investment through, FII portfolio investment, NRI/Overseas Corporate Bodies (OCBs) investment on non-repatriable basis and investment by foreign venture capital investors.

9 Sector: Acquisition of Land

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment  
(Article 86)

Measures: Article 73 of the Constitution of  
India read with Article 246 of the  
Constitution of India.

Foreign Exchange Management Act, 1999  
and all regulations/rules/orders  
issued thereunder.

Press Notes and Circulars on FDI  
Policy issued by the Central  
Government.

Transfer of Property Act, 1882 and all  
regulations/rules/orders issued  
thereunder.

The Registration Act, 1908 and all  
regulations/rules/orders issued  
thereunder.

The Indian Stamp Act, 1899 and all  
regulations/rules/orders issued  
thereunder.

The Land Acquisition Act, 1894 and all  
regulations/rules/orders issued  
thereunder.

Description: Save and except as otherwise provided  
under FEMA and regulations made  
thereunder, no person resident outside  
India can transfer any immovable  
property in India.

A person resident outside India can purchase immovable property in India including land only if he or she has established in India a branch, office (excluding liaison office) or other place of business for carrying on a permitted activity in India which is necessary for or incidental to carrying on such activity provided that it complies with all applicable laws, regulations or directions and a declaration in this regard is filed with Reserve Bank of India.

10 Sector: Agriculture

Sub-Sector: All agriculture activities like farming and plantation.

Industry Classification: NIC: 00, 01, 03  
ISIC: 01

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.

Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.

Press Notes and Circulars on FDI Policy issued by the Central Government.

Transfer of Property Act, 1882 and all regulations/rules/orders issued thereunder.

The Registration Act, 1908 and all regulations/rules/orders issued thereunder.

The Indian Stamp Act, 1899 and all regulations/rules/orders issued thereunder.

Description: 1. FDI is not allowed in any agricultural/plantation sector/activity except the following:

- (a) 100 percent FDI is allowed under automatic route in Floriculture, Horticulture, Development of Seeds, and Cultivation of Vegetables and Mushrooms under controlled conditions and services related to agro and allied sectors.
- (b) 100 percent FDI is allowed in the Tea sector including tea plantations under Government route subject to the conditions of :
  - (i) Compulsory divestment of 26 percent equity of the company in favour of an Indian partner/Indian public within a period of 5 years
  - (ii) Prior approval of the State Government concerned in case of any future land use change.

2. For companies dealing with development of transgenic seeds/vegetables, the following conditions apply:

- (a) When dealing with genetically modified seeds or planting material the company shall comply with safety requirements in accordance with laws enacted under the Environment (Protection) Act on the genetically modified organisms.
- (b) Any import of genetically modified materials if required shall be subject to the conditions laid down vide Notifications issued under Foreign Trade (Development and Regulation) Act, 1992.
- (c) The company shall comply with any other Law, Regulation or Policy governing genetically modified material in force from time to time.

- (d) Undertaking of business activities involving the use of genetically engineered cells and material shall be subject to the receipt of approvals from Genetic Engineering Approval Committee (GEAC) and Review Committee on Genetic Manipulation (RCGM).
- (e) Import of materials shall be in accordance with National Seeds Policy.
- (f) The term "under controlled conditions" covers the following:
  - ❖ 'Cultivation under controlled conditions' for the categories of Floriculture, Horticulture, Cultivation of vegetables and Mushrooms is the practice of cultivation wherein rainfall, temperature, solar radiation, air humidity and culture medium are controlled artificially. Control in these parameters may be effected through protected cultivation under green houses, net houses, poly houses or any other improved infrastructure facilities where micro-climatic conditions are regulated anthropogenically.
  - ❖ Development of seeds will be considered to be 'under controlled conditions' when seed farms/laboratories use tissue culture or any other micro-propagation techniques for development and multiplication of seeds/planting material. Seed development in the case of anthuriums, orchids and other ornamental crops in green houses/net houses/poly houses is also included in this category.

11 Sector: Animal Husbandry, Pisciculture and Aquaculture

Sub-Sector:

Industry NIC: 05, 06  
Classification: ISIC: 01, 03

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.

Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.

Press Notes and Circulars on FDI Policy issued by the Central Government.

Essential Commodities Act, 1955 and all regulations/rules/orders issued thereunder.

Destructive Insects and Pests Act, 1914 and all regulations/rules/orders issued thereunder.

Ban on fishing by all fishing vessels in the EEZ beyond territorial waters.

Notification dated 24-08-09 for the Prevention and Control of Infectious and Contagious Diseases in Animals.

The Prevention and Control of Infectious and Contagious Diseases in Animals Act, 2009 and all regulations/rules/orders issued thereunder.

Milk and Milk Product Order, 1992.

The Maritime Zones of India  
(Regulation of Fishing by Foreign  
Vessels) Act, 1991 and all  
regulations/rules/orders issued  
thereunder.

Description:

100 percent FDI is allowed under  
automatic route in Animal Husbandry,  
Pisciculture and Aquaculture under  
controlled conditions and services  
related to agro and allied sectors.

- ❖ In case of Animal Husbandry,  
scope of the term 'under  
controlled conditions' includes;
  - Rearing of animals under  
intensive farming systems with  
stall-feeding. Intensive  
farming system will require  
climate systems (ventilation,  
temperature/humidity  
management), health care and  
nutrition, herd  
registering/pedigree recording,  
use of machinery, waste  
management systems.
  - Poultry breeding farms and  
hatcheries where micro-climate  
is controlled through advanced  
technologies like incubators,  
ventilation systems etc.
- ❖ In the case of pisciculture and  
aquaculture, 'under controlled  
conditions' includes;
  - Aquariums
  - Hatcheries where eggs are  
artificially fertilised and fry  
are hatched and incubated in an  
enclosed environment with  
artificial climate control.



12 Sector: Mining

Sub-Sector: Mining covering exploration and mining of diamonds and precious stones; gold, and silver.

Industry Classification: NIC: 13  
ISIC: 07, 08, 099

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)  
Prohibition of Performance Requirement (Article 89)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.  
Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.  
Press Notes and Circulars on FDI Policy issued by the Central Government.  
Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 and all regulations/rules/orders issued thereunder.  
Offshore Areas (Mineral Development and Regulation) Act, 2002 and all regulations/rules/orders issued thereunder.  
Cess and Other Taxes on Minerals Validation Act, 1992 and all regulations/rules/orders issued thereunder.  
Industries (Development and Regulation) Act, 1951 and all regulations/rules/orders issued thereunder.

Forest Conservation Act, 1980 and all regulations/rules/orders issued thereunder.

Description: 100 percent FDI is allowed under the automatic route in Mining and Exploration of metal and non-metal ores including diamond, gold, silver and precious ores but excluding titanium bearing minerals and its ores; subject to the MMDR Act, 1957. Also subject to the condition that in the event the foreign investor is establishing a 100 percent subsidiary, it shall submit a declaration to the effect that it has no existing joint venture for the same area or for a particular mineral.

13 Sector: Mining and Quarrying

Sub-Sector: Mining of coal and lignite, extraction of peat.

Industry Classification: NIC: 10  
ISIC: 05, 0892, 099

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)  
Prohibition of Performance Requirement (Article 89)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.

Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.

Press Notes and Circulars on FDI Policy issued by the Central Government.

Coal Mines (Nationalisation) Act, 1973 and all regulations/rules/orders issued thereunder.

Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 and all regulations/rules/orders issued thereunder.

Offshore Areas (Mineral Development and Regulation) Act, 2002 and all regulations/rules/orders issued thereunder.

Cess and Other Taxes on Minerals Validation Act, 1992 and all regulations/rules/orders issued thereunder.

Industries (Development and Regulation) Act, 1951 and all regulations/rules/orders issued thereunder.

Forest Conservation Act, 1980 and all regulations/rules/orders issued thereunder.

Atomic Energy Act, 1962 and all regulations/rules/orders issued thereunder.

Atomic Energy (Radiation Protection) Rules, 2004.

Atomic Energy (Safe Disposal of Radioactive Wastes) Rules, 1987.

- Description:
- (a) 100 percent FDI is allowed under the automatic route in Coal and Lignite mining for captive consumption by power projects, iron and steel and cement units and other eligible activities permitted under and subject to the provisions of Coal Mines (Nationalisation) Act, 1973.
  - (b) 100 percent FDI is allowed for setting up coal processing plants like washeries, subject to conditions.

14 Sector: Mining and Quarrying

Sub-Sector: Mining of uranium and thorium ores.

Industry Classification: NIC: 14  
ISIC: 0721, 099

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)  
Prohibition of Performance Requirement (Article 89)

Measures: Uranium and Thorium ores are "atomic minerals" under Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957

Description: Under the provisions of the MMDR Act, 1957, the reconnaissance or prospecting or mining operations can be undertaken only pursuant to a licence and consequent lease and no person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of reconnaissance permit or of a prospecting licence or, as the case may be, a mining lease, granted under the MMDR Act, 1957 and the rules made thereunder.

Government shall not grant reconnaissance permit, prospecting licence or mining lease to any person unless such person:

- (a) is an Indian national, or a Company as defined in sub-section (1) of Section 3 of the Companies Act, 1956; and
- (b) satisfies such conditions as may be prescribed.

Provided that in respect of any mineral specified in the First Schedule of MMDR Act, 1957, no prospecting licence or mining lease shall be granted except with the previous approvals of the Central Government.

*Explanation* - For the purposes of this reservation, a person shall be deemed to be an Indian national:

- (a) in the case of a firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and
- (b) in the case of an individual, only if he is a citizen of India.

A State Government may either with the previous approval of the Central Government or at the instance of the Central Government impose such further conditions as may be necessary in the interests of mineral development, including development of atomic minerals (Mineral Concession Rules 1960).

15 Sector: Mining and Quarrying

Sub-Sector: Mining of iron ores, Mining of metal ores, Mining of non-metallic minerals (other than Petroleum and natural gas)

Industry Classification: NIC: 12, 13, 15  
ISIC: 07, 08, 099

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)  
Prohibition of Performance Requirement (Article 89)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.  
Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.  
Press Notes and Circulars on FDI Policy issued by the Central Government.  
Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 and all regulations/rules/orders issued thereunder.  
Offshore Areas (Mineral Development and Regulation) Act, 2002 and all regulations/rules/orders issued thereunder.

Cess and Other Taxes on Minerals Validation Act, 1992 and all regulations/rules/orders issued thereunder.

Industries (Development and Regulation) Act, 1951 and all regulations/rules/orders issued thereunder.

Forest Conservation Act, 1980 and all regulations/rules/orders issued thereunder.

Description: FDI up to 100 percent is permitted on the automatic route in mining of non-atomic and non-fuel minerals subject to applicable laws and regulations including the MMDR Act, 1957.

Under the provisions of the MMDR Act, 1957, the reconnaissance or prospecting or mining operations can be undertaken only pursuant to a licence and consequent lease and no person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of reconnaissance permit or of a prospecting licence or, as the case may be, a mining lease, granted under MMDR Act and the rules made thereunder.

Government shall not grant reconnaissance permit, prospecting licence or mining lease to any person unless such person:

- (a) is an Indian national, or a Company as defined in sub-section (1) of Section 3 of the Companies Act, 1956; and



- (b) satisfies such conditions as may be prescribed.

Provided that in respect of any mineral specified in the First Schedule of the MMDR Act, 1957, no prospecting licence or mining lease shall be granted except with the previous approvals of the Central Government.

*Explanation* - For the purposes of this sub-section, a person shall be deemed to be an Indian national:

- (a) in the case of a firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and
- (b) in the case of an individual, only if he is a citizen of India.

A State Government may either with the previous approval of the Central Government or at the instance of the Central Government impose such further conditions as may be necessary in the interests of mineral development, including development of atomic minerals (Mineral Concession Rules 1960)

The holder of a mining lease granted shall pay royalty in respect of any mineral removed or consumed by him/her or by his/her agent, manager, employee, contractor or sub-lessee from the leased area after such commencement, at the rate for the time being specified.

16 Sector: Other Mining and Quarrying

Sub-Sector: Quarrying of stone, sand and clay

Industry Classification: NIC: 15  
ISIC: 08, 099

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)  
Prohibition of Performance Requirement (Article 89)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.  
Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.  
Press Notes and Circulars on FDI Policy issued by the Central Government.  
Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 and all regulations/rules/orders issued thereunder.  
Offshore Areas (Mineral Development and Regulation) Act, 2002 and all regulations/rules/orders issued thereunder.  
Cess and Other Taxes on Minerals Validation Act, 1992 and all regulations/rules/orders issued thereunder.  
Industries (Development and Regulation) Act, 1951 and all regulations/rules/orders issued thereunder.

Forest Conservation Act, 1980 and all regulations/rules/orders issued thereunder.

Description: These are categorised as Minor Minerals under Section 3 of the MMDR Act, 1957. The State Governments have the powers to regulate operations of mining of minor minerals.

17 Sector: Titanium bearing minerals and ores

Sub-Sector: Mining and production of Titanium ores (Ilmenite, Rutile, and Leucoxene) and Zirconium minerals (Zircon)

Industry Classification: NIC: 13  
ISIC: 07, 099

Type of Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment (Article 86)  
Prohibition of Performance Requirement (Article 89)

Measures: Article 73 of the Constitution of India read with Article 246 of the Constitution of India.  
Foreign Exchange Management Act, 1999 and all regulations/rules/orders issued thereunder.  
Press Notes and Circulars on FDI Policy issued by the Central Government.  
Atomic Energy Act, 1962 and all regulations/rules/orders issued thereunder.  
Mines and Minerals (Development and Regulation) Act (MMDR Act), 1957 and all regulations/rules/orders issued thereunder.  
Offshore Areas (Mineral Development and Regulation) Act, 2002 and all regulations/rules/orders issued thereunder.  
Cess and Other Taxes on Minerals Validation Act, 1992 and all regulations/rules/orders issued thereunder.

Industries (Development and Regulation) Act, 1951 and all regulations/rules/orders issued thereunder.

Forest Conservation Act, 1980 and all regulations/rules/orders issued thereunder.

Description: FDI up to 100 percent is allowed with prior government approval in mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities, subject to sectoral regulations and the MMDR Act, 1957. The separation of titanium bearing minerals and ores will be subject to the following additional conditions:

- (a) value addition facilities are set up within India along with transfer of technology;
- (b) disposal of tailings during the mineral separation shall be carried out in accordance with regulations framed by the Atomic Energy Regulatory Board such as Atomic Energy (Radiation Protection) Rules, 2004; Atomic Energy (Safe Disposal of Radioactive Wastes) Rules, 1987.

No FDI is permitted in mining of prescribed substances as notified by the Department of Atomic Energy, under the Atomic Energy Act, 1962. Under the provisions of the MMDR Act, 1957, the reconnaissance or prospecting or mining operations can be undertaken only pursuant to a licence and consequent lease and no person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of reconnaissance permit or of a prospecting licence or, as the case may be, a mining lease, granted under the MMDR Act, 1957 and the rules made thereunder.

Government shall not grant reconnaissance permit, prospecting licence or mining lease to any person unless such person:

- (a) is an Indian national, or a Company as defined in sub-section (1) of Section 3 of the Companies Act, 1956; and
- (b) satisfies such conditions as may be prescribed.

Provided that in respect of any mineral specified in the First Schedule of the MMDR Act, 1957, no prospecting licence or mining lease shall be granted except with the previous approvals of the Central Government.

*Explanation* - For the purposes of this reservation, a person shall be deemed to be an Indian national:

- (a) in the case of a firm or other association of individuals, only if all the members of the firm or members of the association are citizens of India; and
- (b) in the case of an individual, only if he is a citizen of India.

A State Government may either with the previous approval of the Central Government or at the instance of the Central Government impose such further conditions as may be necessary in the interests of mineral development, including development of atomic minerals (Mineral Concession Rules 1960).

The holder of a mining lease granted shall pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area after such commencement, at the rate for the time being specified.

18 Sector: Defence Industry

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment  
(Article 86)  
Prohibition of Performance  
Requirement (Article 89)

Measures: Article 73 of the Constitution of  
India read with Article 246 of the  
Constitution of India.  
Foreign Exchange Management Act, 1999  
and all regulations/rules/orders  
issued thereunder.  
Press Notes and Circulars on FDI  
Policy issued by the Central  
Government.  
Arms Act, 1959 and all  
regulations/rules/orders issued  
thereunder.  
Industries (Development and  
Regulation) Act, 1951 and all  
regulations/rules/orders issued  
thereunder.  
Defence Procurement Policy of the  
Central Government.

Description: FDI in Defence Industry  
(manufacturing) Sector is subject to  
licensing under the Industries  
(Development and Regulation) Act, 1951  
and also subject to following  
limitations:  
(a) non-resident equity cannot  
exceed 26 percent

- (b) There is a three year lock in period for transfer of equity from one foreign investor to another foreign investor (including NRIs and OCBs with 60 percent of more NRI stake) and such transfer would be subject to prior approval of the Foreign Investment Promotion Board (FIPB) and the Government.
- (c) FDI shall be subject to policies made by the Government under the Industries (Development and Regulation) Act, 1951 from time to time.
- (d) Treatment of Indian companies having FDI in terms of procurement of products shall be governed by the rules and procedures regulating procurement by defence services as may be issued or modified from time to time by Ministry of Defence, Government of India.
- (e) FDI approval will be given by FIPB in consultation with Ministry of Defence.
- (f) Licences will be given to Indian companies/partnership firms given by the Department of Industrial Policy and promotion in consultation with Ministry of Defence.
- (g) The applicant should be an Indian company/partnership firm.
- (h) The management of the applicant company/partnership should be in Indian hands with majority representation on the Board as well as the Chief Executive of the company/partnership firm being resident Indians.
- (i) Full particulars of the Directors and the Chief Executives should be furnished along with the applications.



- (j) The Government reserves the right to verify the antecedents of the foreign collaborators and domestic promoters including their financial standing and credentials in the world market. Preference would be given to original equipment manufacturers or design establishments, and companies having a good track record of past supplies to Armed Forces, Space and Atomic energy sectors and having an established R and D base.
- (k) No minimum capitalisation for FDI purposes.
- (l) The standards and testing procedures for equipment to be produced under licence from foreign collaborators or from indigenous R and D will have to be provided by the licensee to the Government nominated quality assurance agency under appropriate confidentiality clause.
- (m) The licensing authority would satisfy itself about the adequacy of the networth of the foreign investor, taking into account the category of weapons and equipments that are proposed to be manufactured.
- (n) Capacity norms for production will be provided in the licence based on the application as well as the recommendations of the Ministry of Defence, which will look into existing capacities of similar or allied products.
- (o) Purchase preference and price preference may be given to the Public Sector organisations as per guidelines of the Department of Public Enterprises.

(p) Arms and ammunition produced by the private manufacturers will be primarily sold to the Ministry of Defence. These items may also be sold to other Government entities under the control of Ministry of Home Affairs and State Government with the prior approval of Ministry of Defence. No such item shall be sold within the country to any person or entity. The export of manufactured items will be subject to guidelines as applicable to ordinance factories and defence public sector undertakings. Non-lethal items will be permitted for sale to person/entities other than the Central or state government with the prior approval of Ministry of Defence.

19 Sector: All Services Sector

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 85)

Most-Favoured-Nation Treatment  
(Article 86)

Prohibition of Performance  
Requirement (Article 89)

Measures: Article 73 of the Constitution of  
India read with Article 246 of the  
Constitution of India.

Any existing or current regulations  
or measures in force on the date of  
entry of this Agreement.

Description: India reserves the right to maintain  
any measure relating to investments  
in services sectors subject to the  
condition that they do not violate  
the obligations under Chapter 6.

20 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 85)

Most-Favoured-Nation Treatment  
(Article 86)

Prohibition of Performance  
Requirement (Article 89)

Measures: Article 73 of the Constitution of  
India read with Article 246 of the  
Constitution of India.

Any existing or current regulations  
or measures in force on the date of  
entry of this Agreement.

Description: Any existing measures framed by the  
state governments/Union  
territories/local governments are not  
subject to either National Treatment,  
Most-Favoured-Nation Treatment or  
Prohibition of Performance  
Requirement obligations derived from  
the Articles in Chapter 8.

Part 2  
Schedule of Japan

1. The Schedule of Japan sets out, pursuant to paragraph 1 of Article 90, the reservations taken by Japan with respect to existing measures that do not conform with obligations imposed by:

- (a) Article 85;
- (b) Article 86; or
- (c) Article 89.

2. Each reservation sets out the following elements:

- (a) "Sector" refers to the general sector in which the reservation is taken;
- (b) "Sub-Sector" refers to the specific sector in which the reservation is taken;
- (c) "Industry Classification" refers, where applicable, and only for transparency purposes, to the activity covered by the reservation according to domestic or international industry classification codes;
- (d) "Type of Reservation" specifies the obligations referred to in paragraph 1 for which the reservation is taken;
- (e) "Level of Government" indicates the level of government maintaining the measure for which the reservation is taken;
- (f) "Measures" identifies the existing laws, regulations or other measures for which the reservation is taken. A measure cited in the "Measures" element:
  - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and

- (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
- (g) "Description" sets out, with regard to the obligations referred to in paragraph 1, the non-conforming aspects of the existing measures for which the reservation is taken.

3. In the interpretation of a reservation, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of Chapter 8 against which the reservation is taken, and the "Measures" element shall prevail over all other elements.

4. For the purposes of this Part, the term "JSIC" means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised on November 6, 2007.

1 Sector: Agriculture, Forestry and Fisheries  
(Plant Breeder's Right)

Sub-Sector:

Industry Classification: JSIC 0119 Miscellaneous crop farming  
 JSIC 0243 Tree seed gathering and forest nursery services  
 JSIC 0413 Seaweed aquaculture  
 JSIC 0415 Seed aquaculture

Type of Reservation: National Treatment (Article 85)  
 Most-Favoured-Nation Treatment (Article 86)

Level of Government: Central Government

Measures: Seeds and Seedlings Law (Law No. 83 of 1998), Article 10

Description: A foreigner who has neither a domicile nor residence (nor establishment, in the case of a legal person) in Japan cannot enjoy a plant breeder's right or related rights except in any of the following cases:

(a) where the country of which the person is a national or the country in which the person has a domicile or residence (or its establishment, in the case of a legal person) is a contracting party to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as Revised at Geneva on November 10, 1972, on October 23, 1978, and on March 19, 1991;

(b) where the country of which the person is a national or the country in which the person has a domicile or residence (or its establishment, in the case of a legal person) is a contracting party to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as Revised at Geneva on November 10, 1972 and on October 23, 1978 (hereinafter referred to in this Annex as "the 1978 UPOV Convention"), or a country in relation with which Japan shall apply the 1978 UPOV Convention in accordance with paragraph (2) of Article 34 of the 1978 UPOV Convention, and further provides the protection for plant genus and species to which the person's applied variety belongs; or

(c) where the country of which the person is a national provides Japanese nationals with the protection of varieties under the same condition as its own nationals (including a country which provides such protection for Japanese nationals under the condition that Japan allows enjoyment of the plant breeder's right or related rights for the nationals of that country), and further provides the protection for plant genus and species to which the person's applied variety belongs.



2 Sector: Finance

Sub-Sector: Banking

Industry Classification: JSIC 622 Banks, except central bank  
 JSIC 631 Financial institutions for small-businesses

Type of Reservation: National Treatment (Article 85)

Level of Government: Central Government

Measures: Deposit Insurance Law (Law No. 34 of 1971), Article 2

Description: The deposit insurance system does not cover deposits taken by branches of foreign banks.

3 Sector: Heat Supply

Sub-Sector:

Industry Classification: JSIC 3511 Heat supply

Type of Reservation: National Treatment (Article 85)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27  
Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in the heat supply.

4 Sector: Information and Communications

Sub-Sector: Telecommunications

Industry Classification: JSIC 3700 Head offices primarily engaged in managerial operations

JSIC 3711 Regional telecommunications, except wire broadcast telephones

JSIC 3731 Services incidental to telecommunications

Type of Reservation: National Treatment (Article 85)

Prohibition of Performance Requirements (Article 89)

Level of Government: Central Government

Measures: Law Concerning Nippon Telegraph and Telephone Corporation (Law No. 85 of 1984), Articles 6 and 10

Description: 1. Nippon Telegraph and Telephone Corporation may not enter the 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 subparagraphs (a) through (c) reaches or exceeds one third:

- (a) a natural person who does not have Japanese nationality;
- (b) a foreign government or its representative; and
- (c) a foreign legal person or a foreign entity.

2. Any natural person who does not have Japanese nationality may not assume the office of director or auditor of Nippon Telegraph and Telephone Corporation, Nippon Telegraph and Telephone East Corporation and Nippon Telegraph and Telephone West Corporation.

5 Sector: Information and Communications

Sub-Sector: Telecommunications and Internet Based Services

Industry Classification: JSIC 3711 Regional telecommunications, except wire broadcast telephones

JSIC 3712 Long-distance telecommunications

JSIC 3719 Miscellaneous fixed telecommunications

JSIC 3721 Mobile telecommunications

JSIC 401 Internet based services

Note: The activities covered by the reservation under JSIC 3711, 3712, 3719, 3721 or 401 are limited to the activities which are subject to the registration obligation under Article 9 of the Telecommunications Business Law (Law No. 86 of 1984).

Type of Reservation: National Treatment (Article 85)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in telecommunications business and internet based services.

6 Sector: Manufacturing

Sub-Sector: Drugs and Medicines Manufacturing

Industry Classification: JSIC 1653 Biological preparations

Type of Reservation: National Treatment (Article 85)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27  
Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in biological preparations manufacturing industry in Japan. For greater certainty, "biological preparations manufacturing industry" deals with economic activities in establishment which mainly produces vaccine, serum, toxoid, antitoxin and some preparations similar to the aforementioned products, or blood products.

|   |                             |  |
|---|-----------------------------|--|
| 7 | Sector:                     | Manufacturing  |
|   | Sub-Sector:                 | Leather and Leather Products<br>Manufacturing  |
|   | Industry<br>Classification: | JSIC 1189 Textile apparel and<br>accessories, n.e.c.<br>JSIC 1694 Gelatine and adhesives<br>JSIC 192 Rubber and plastic<br>footwear and its findings<br>JSIC 2011 Leather tanning and<br>finishing<br>JSIC 2021 Mechanical leather<br>products, except gloves<br>and mittens<br>JSIC 2031 Cut stock and findings for<br>boots and shoes<br>JSIC 2041 Leather footwear<br>JSIC 2051 Leather gloves and mittens<br>JSIC 2061 Baggage<br>JSIC 207 Handbags and small leather<br>cases<br>JSIC 2081 Fur skins<br>JSIC 2099 Miscellaneous leather<br>products<br>JSIC 3253 Sporting and athletic<br>goods |

Note 1: The activities covered by the reservation under JSIC 1189 or 3253 are limited to the activities related to leather and leather products manufacturing.

Note 2: The activities covered by the reservation under JSIC 1694 are limited to the activities related to animal glue (nikawa) and gelatine manufacturing.

|                      |  |
|----------------------|--|
| Type of Reservation: | National Treatment (Article 85)  |
| Level of Government: | Central Government   |
| Measures:            | Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27<br><br>Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3  |
| Description:         | The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in leather and leather products manufacturing industry in Japan. |



8 Sector: Matters Related to the Nationality of a Ship

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 85)  
Prohibition of Performance  
Requirements (Article 89)

Level of  
Government: Central Government

Measures: Ship Law (Law No. 46 of 1899),  
Article 1

Description: The Japanese nationality shall be given to a ship whose owner is a Japanese national, or a company established under Japanese law, of which all the representatives and not less than two-thirds of the executives administering the affairs are Japanese nationals.

9 Sector: Mining

Sub-Sector:

Industry Classification: JSIC 05 Mining and Quarrying of Stone and Gravel

Type of Reservation: National Treatment (Article 85)

Level of Government: Central Government

Measures: Mining Law (Law No. 289 of 1950), Chapters 2 and 3

Description: Only a Japanese national or a Japanese legal person may have mining rights or mining lease rights.

10 Sector: Oil Industry

Sub-Sector:

Industry Classification: JSIC 053 Crude petroleum and natural gas production

JSIC 1711 Petroleum refining

JSIC 1721 Lubricating oils and greases (not made in petroleum refineries)

JSIC 1741 Paving materials

JSIC 1799 Miscellaneous petroleum and coal products

JSIC 4711 Ordinary warehousing

JSIC 4721 Refrigerated warehousing

JSIC 5331 Petroleum

JSIC 6051 Petrol stations (gasoline service stations)

JSIC 6052 Fuel stores, except gasoline service stations

JSIC 9299 Miscellaneous business services, n.e.c.

Note 1: The activities covered by the reservation under JSIC 1741, 1799, 4711, 4721 or 6052 are limited to the activities related to oil industry.

Note 2: The activities covered by the reservation under JSIC 9299 are limited to the activities related to liquefied petroleum gas industry.

Type of Reservation: National Treatment (Article 85)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27  
Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in oil industry in Japan. All organic chemicals such as ethylene, ethylene glycol and polycarbonates are outside the scope of the oil industry. Therefore, prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investments in the manufacture of these products.

11 Sector: Agriculture, Forestry and Fisheries, and Related Services (except Fisheries within the Territorial Sea, Internal Waters, Exclusive Economic Zone and Continental Shelf provided for in the reservation No. 7 in Schedule of Japan in Annex 9)

Sub-Sector:

Industry Classification: JSIC 01 Agriculture  
JSIC 02 Forestry  
JSIC 03 Fisheries, except aquaculture  
JSIC 04 Aquaculture  
JSIC 6324 Agricultural cooperatives  
JSIC 6325 Fishery and fishery processing cooperatives  
JSIC 871 Agriculture, forestry and fisheries cooperative associations, n.e.c.

Type of Reservation: National Treatment (Article 85)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27  
Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in agriculture, forestry and fisheries, and related services (except fisheries within the territorial sea, internal waters, exclusive economic zone and continental shelf provided for in the reservation No. 7 in Schedule of Japan in Annex 9) in Japan.

12 Sector: Security Guard Services

Sub-Sector:

Industry Classification: JSIC 9231 Guard services

Type of Reservation: National Treatment (Articles 85)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in security guard services in Japan.

13 Sector: Transport

Sub-Sector: Air Transport

Industry Classification: JSIC 4600 Head offices primarily engaged in managerial operations  
 JSIC 4611 Air transport

Type of Reservation: National Treatment (Article 85)  
 Most-Favoured-Nation Treatment (Article 86)  
 Prohibition of Performance Requirements (Article 89)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27  
 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3  
 Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

Description: 1. The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in air transport business in Japan.  
 2. Permission of the Minister of Land, Infrastructure, Transport and Tourism for conducting air transport business as a Japanese air carrier is not granted to the following natural persons or entities applying for the permission:



- (a) a natural person who does not have Japanese nationality;
- (b) a foreign country, or a foreign public entity or its equivalent;
- (c) a legal person or other entity constituted under the laws of any foreign country; and
- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

In the event an air carrier becomes a natural person or an entity referred to in subparagraphs (a) through (d), the permission will lose its effect. The conditions for the permission also apply to companies, such as holding companies, which have substantial control over the air carriers.

3. Japanese air carriers or the companies having substantial control over the air carriers, such as holding companies, may reject the request from a natural person or an entity set forth in subparagraphs 2(a) through (c), who owns equity investments in such air carriers or companies, to enter its name and address in the register of shareholders, in the event such air carriers or companies become natural persons or entities referred to in subparagraph 2(d) by accepting such request.

4. Foreign air carriers are required to obtain permission of the Minister of Land, Infrastructure, Transportation and Tourism to conduct international air transport business.

5. Permission of the Minister of Land, Infrastructure, Transport and Tourism is required for the use of foreign aircraft for air transportation of passengers or cargoes to and from Japan for remuneration.

6. A foreign aircraft may not be used for a flight and for transporting passengers or cargoes for remuneration, between points within Japan.

14 Sector: Transport

Sub-Sector: Air Transport

Industry Classification: JSIC 4600 Head offices primarily engaged in managerial operations

JSIC 4621 Aircraft service, except air transport

Type of Reservation: National Treatment (Article 85)

Prohibition of Performance Requirements (Article 89)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Civil Aeronautics Law (Law No. 231 of 1952), Chapters 7 and 8

Description: 1. The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in aerial work business in Japan.

2. Permission of the Minister of Land, Infrastructure, Transport and Tourism for conducting aerial work business is not granted to the following natural persons or entities applying for the permission:

(a) a natural person who does not have Japanese nationality;

- (b) a foreign country, or a foreign public entity or its equivalent;
- (c) a legal person or other entity constituted under the laws of any foreign country; and
- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

In the event a person conducting aerial work business becomes a natural person or an entity referred to in subparagraphs (a) through (d), the permission will lose its effect. The conditions for the permission also apply to companies, such as holding companies, which have substantial control over the person conducting aerial work business.

3. A foreign aircraft may not be used for a flight between points within Japan.

15 Sector: Transport

Sub-Sector: Air Transport (Registration of Aircraft in the National Register)

Industry Classification:

Type of Reservation: National Treatment (Article 85)  
Prohibition of Performance Requirements (Article 89)

Level of Government: Central Government

Measures: Civil Aeronautics Law (Law No. 231 of 1952), Chapter 2

Description: 1. An aircraft owned by any of the following natural persons or entities may not be registered in the national register:

- (a) a natural person who does not have Japanese nationality;
- (b) a foreign country, or a foreign public entity or its equivalent;
- (c) a legal person or other entity constituted under the laws of any foreign country; and

(d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

2. A foreign aircraft may not be registered in the national register.

16 Sector: Transport

Sub-Sector: Freight Forwarding Business  
(excluding freight forwarding  
business using air transportation)

Industry Classification: JSIC 4441 Collect-and-deliver  
freight transport

JSIC 4821 Deliver freight transport,  
except collect-and-deliver  
freight transport

Type of Reservation: National Treatment (Article 85)

Most-Favoured-Nation Treatment  
(Article 86)

Prohibition of Performance  
Requirements (Article 89)

Level of Government: Central Government

Measures: Freight Forwarding Business Law (Law  
No. 82 of 1989), Chapters 2 through  
4

Enforcement Regulation of Freight  
Forwarding Business Law (Ministerial  
Ordinance of the Ministry of  
Transport No. 20 of 1990)

Description: The following natural persons or  
entities are required to be  
registered with, or to obtain  
permission or approval of, the  
Minister of Land, Infrastructure,  
Transport and Tourism for conducting  
freight forwarding business using  
international shipping. Such  
registration shall be made, or such  
permission or approval shall be  
granted, on the basis of  
reciprocity:

- (a) a natural person who does not have Japanese nationality;
- (b) a foreign country, or a foreign public entity or its equivalent;
- (c) a legal person or other entity constituted under the laws of any foreign country; and
- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).



|                          |   |
|--------------------------|---|
| 17 Sector:               | Transport   |
| Sub-Sector:              | Freight Forwarding Business (only freight forwarding business using air transportation)   |
| Industry Classification: | <p>JSIC 4441 Collect-and-deliver freight transport</p> <p>JSIC 4821 Deliver freight transport, except collect-and-deliver freight transport</p>   |
| Type of Reservation:     | <p>National Treatment (Article 85)</p> <p>Most-Favoured-Nation Treatment (Article 86)</p> <p>Prohibition of Performance Requirements (Article 89)</p>   |
| Level of Government:     | Central Government  |
| Measures:                | <p>Freight Forwarding Business Law (Law No. 82 of 1989), Chapters 2 through 4</p> <p>Enforcement Regulation of Freight Forwarding Business Law (Ministerial Ordinance of the Ministry of Transport No. 20 of 1990)</p>  |
| Description:             | <p>1. The following natural persons or entities may not conduct freight forwarding business using air transportation between points within Japan:</p> <p>(a) a natural person who does not have Japanese nationality;</p> <p>(b) a foreign country, or foreign public entity or its equivalent;</p> |

- (c) a legal person or other entity constituted under the laws of any foreign country; and
- (d) a legal person represented by the natural persons or entities referred to in subparagraph (a), (b) or (c); a legal person of which more than one-third of the members of the board of directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which more than one-third of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

2. The natural persons or entities referred to in subparagraphs 1(a) through (d) are required to be registered with, or to obtain permission or approval of, the Minister of Land, Infrastructure, Transport and Tourism for conducting freight forwarding business using international air transportation. Such registration shall be made, or such permission or approval shall be granted, on the basis of reciprocity.

18 Sector: Transport

Sub-Sector: Railway Transport

Industry Classification: JSIC 42 Railway transport  
 JSIC 4851 Railway facilities services

Type of Reservation: National Treatment (Article 85)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27  
 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in railway transport industry in Japan. The manufacture of vehicles, parts and components for the railway transport industry is not included in railway transport industry. Therefore, prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investments in the manufacture of these products.

19 Sector: Transport

Sub-Sector: Road Passenger Transport

Industry Classification: JSIC 4311 Common omnibus operators

Type of Reservation: National Treatment (Article 85)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27

Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in omnibus industry in Japan. The manufacture of vehicles, parts and components for omnibus industry is not included in omnibus industry. Therefore, prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investments in the manufacture of these products.

20 Sector: Transport

Sub-Sector: Water Transport

Industry Classification: JSIC 452 Coastwise transport  
 JSIC 453 Inland water transport  
 JSIC 4542 Coastwise ship leasing

Type of Reservation: National Treatment (Article 85)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Article 27  
 Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Article 3

Description: The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in water transport industry in Japan. For greater certainty, "water transport industry" refers to oceangoing/seagoing transport, coastwise transport (i.e. maritime transport between ports within Japan), inland water transport and ship leasing industry. However, oceangoing/seagoing transport industry and ship leasing industry excluding coastwise ship leasing industry are exempted from the prior notification requirement.

21 Sector: Transport

Sub-Sector: Water Transport

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 85)  
Most-Favoured-Nation Treatment  
(Article 86)

Level of  
Government: Central Government

Measures: Ship Law (Law No. 46 of 1899),  
Article 3

Description: Unless otherwise specified in laws  
and regulations of Japan, or  
international agreements to which  
Japan is a party, ships not flying  
the Japanese flag are prohibited  
from entering Japanese ports which  
are not open to foreign commerce and  
from carrying cargoes or passengers  
between Japanese ports.

22 Sector: Water Supply and Waterworks

Sub-Sector:

Industry Classification: JSIC 3611 Water for end users,  
except industrial users

Type of Reservation: National Treatment (Article 85)

Level of Government: Central Government

Measures: Foreign Exchange and Foreign Trade  
Law (Law No. 228 of 1949), Article  
27

Cabinet Order on Foreign Direct  
Investment (Cabinet Order No. 261 of  
1980), Article 3

Description: The prior notification requirement  
under the Foreign Exchange and  
Foreign Trade Law applies to foreign  
investors who intend to make  
investments in water supply and  
waterworks industry in Japan.