

LAW FOR IMPLEMENTATION OF THE MUTUAL RECOGNITION BETWEEN JAPAN AND THE EUROPEAN COMMUNITY IN RELATION TO CONFORMITY ASSESSMENT OF SPECIFIED EQUIPMENT

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Chapter I General Provisions

(Purpose)

Article 1

The purpose of this Law is to facilitate the import and export of specified equipment between Japan and the European Community by setting forth the necessary matters for the conduct of overseas conformity assessment business, making provision for exceptions under the Telecommunications Business Law (Law No. 86, 1984), Radio Law (Law No. 131, 1950) and Electrical Appliance and Material Safety Law (Law No. 234, 1961), and taking other steps to ensure the proper implementation of the Agreement on Mutual Recognition between Japan and the European Community (hereinafter referred to as “the Agreement”).

(Definitions)

Article 2

- (1) The term “specified equipment” as used in this Law means specified export equipment and specified import equipment.
- (2) The term “specified export equipment” as used in this Law means the equipment and products set forth below:
 - i) The telecommunications terminal equipment and radio equipment stipulated in the laws, regulations and administrative provisions stated in the left-hand column of the table in Section I of Part B of the Sectoral Annex on Telecommunications Terminal Equipment and Radio Equipment of the Agreement (hereinafter referred to as “the Sectoral Annex on Telecom Equipment”).
 - ii) Electrical products stipulated in the laws, regulations and administrative provisions stated in the left-hand column of the table in Section I of Part B of the Sectoral Annex on Electrical Products of the Agreement (hereinafter referred to as “the Sectoral Annex on Electrical Products”).
- (3) The term “specified import equipment” as used in this Law means the equipment and products set forth below:
 - i) Terminal equipment (terminal equipment as stipulated in Article 50 paragraph (1) of the Telecommunications Business Law; the same shall apply in Article 31).
 - ii) Specified radio equipment (specified radio equipment as stipulated in Article 38-2 paragraph (1) of the Radio Law; the same shall apply in paragraph (1) and (3) of Article 33).
 - iii) Specified electrical appliances and materials (specified electrical appliances and materials as stipulated in Article 2 paragraph (2) of the Electrical Appliance and Material Safety Law; the same shall apply in Article 35).
- (4) The term “conformity assessment” as used in this Law means the conduct of any of the conformity assessment procedures stipulated in sub-paragraph (a) of paragraph 1 of Article 1 of the Agreement to determine whether specified equipment fulfils the necessary technical requirements set out in the applicable laws and regulations of Japan and the applicable laws and regulations, etc. (applicable laws, regulations and administrative provisions; the same shall apply to each of the items of paragraph (8)) of the European Community.
- (5) The term “conformity assessment body” as used in this Law means a conformity assessment body stipulated in sub-paragraph (b) of paragraph 1 of Article 1 of the Agreement.
- (6) The term “Joint Committee” as used in this Law means the Joint Committee stipulated in paragraph 1 of Article 8 of the Agreement.
- (7) The term “registration” as used in this Law means the registration of a conformity

assessment body pursuant to the provisions of paragraph 1 of Article 9 of the Agreement.

- (8) The term “overseas conformity assessment business” as used in this Law means the business of conformity assessment of the specified export equipment set forth in each of the following items in respect of the technical requirements stipulated in the applicable laws and regulations, etc. stated in the respective items.
- i) Applicable laws and regulations, etc. stated in item i) of the left-hand column of the table in Section II of Part B of the Sectoral Annex on Telecom Equipment
Specified export equipment specified in paragraph (2) item i) of this Article
 - ii) Applicable laws and regulations, etc. stated in item ii) of the left-hand column of the table in Section II of Part B of the Sectoral Annex on Telecom Equipment
Specified export equipment specified in paragraph (2) item i) of this Article
 - iii) Applicable laws and regulations, etc. stated in item iii) of the left-hand column of the table in Section II of Part B of the Sectoral Annex on Telecom Equipment
Specified export equipment specified in paragraph (2) item i) of this Article
 - iv) Applicable laws and regulations, etc. stated in item i) of the left-hand column of the table in Section II of Part B of the Sectoral Annex on Electrical Equipment
Specified export equipment specified in paragraph (2) item ii) of this Article
 - v) Applicable laws and regulations, etc. stated in item ii) of the left-hand column of the table in Section II of Part B of the Sectoral Annex on Electrical Equipment
Specified export equipment specified in paragraph (2) item ii) of this Article

Chapter II Designation of Conformity Assessment Bodies

(Designation)

Article 3

- (1) Any person who intends to engage in overseas conformity assessment business can be designated by the competent minister according to the category of overseas conformity assessment business (category of overseas conformity assessment business relating to each of the items of paragraph (8) of Article 2).
- (2) The designation specified in paragraph (1) can be limited in respect of the type of specified export equipment or scope of conformity assessment activities.
- (3) Any person who intends to be designated pursuant to paragraph (1) must, in accordance with the applicable ministerial ordinance, file with the competent minister an application describing the following matters and other documents specified by the applicable ministerial ordinance:
 - i) Name and address of the applicant and in the case of a juridical person, the names

- and addresses of the representative and officers.
- ii) Category of overseas conformity assessment business.
 - iii) Outline of facilities used for overseas conformity assessment business.
 - iv) Rules and procedures for the conduct of foreign conformity assessment business.
 - v) In the case of a person intending to be designated for activities limited in scope pursuant to the provisions of paragraph (1), the type of specified export equipment and scope of conformity assessment activities
- (4) Upon designation pursuant to paragraph (1), the competent minister shall make public the name and address of the person designated (hereinafter referred to as “designated conformity assessment body”) and matters stated in item ii) and item v) of paragraph (2), and proceed to the registration of the designated conformity assessment body pursuant to the provisions of paragraph (1) and paragraph (2) of Article 9 of the Agreement.

(Disqualification Criteria)

Article 4

The designation specified in paragraph (1) of Article 3 will not be obtained by any persons who falls under any of the following items:

- i) Any person who contravenes this Law or any dispositions made under this Law and has been sentenced to a fine or severer penalty, if a period of two years has not yet elapsed since the day when the sentence was served or the stay of execution was granted.
- ii) Any person whose designation was withdrawn pursuant to Article 13 paragraph (1), if a period of two years has not yet elapsed since the day of withdrawal.
- iii) Any person who is a juridical person, one or more of whose officers engaged in its activities falls under either of the above mentioned disqualification criteria.

(Criteria for Designation)

Article 5

- (1) The competent minister shall not grant designation unless he deems that the applicant satisfies the criteria for designation set forth in the applicable ministerial ordinance in accordance with the criteria for designation specified in each of the following items corresponding to the respective categories of overseas conformity assessment business.
- i) Overseas conformity assessment business specified in Article 2 paragraph (8) item i)
Criteria for designation stipulated in item i) and item iv) in the left-hand column of the table in Section IV of Part B of the Sectoral Annex on Telecom Equipment
 - ii) Overseas conformity assessment business specified in Article 2 paragraph (8) item

- ii)
Criteria for designation stipulated in item ii) and item iv) in the left-hand column of the table in Section IV of Part B of the Sectoral Annex on Telecom Equipment
 - iii) Overseas conformity assessment business specified in Article 2 paragraph (8) item iii)
Criteria for designation stipulated in item iii) and item iv) in the left-hand column of the table in Section IV of Part B of the Sectoral Annex on Telecom Equipment
 - iv) Overseas conformity assessment business specified in Article 2 paragraph (8) item iv)
Criteria for designation stipulated in item i) and item iii) in the left-hand column of the table in Section IV of Part B of the Sectoral Annex on Electrical Products
 - v) Overseas conformity assessment business specified in Article 2 paragraph (8) item v)
Criteria for designation stipulated in item ii) and item iii) in the left-hand column of the table in Section IV of Part B of the Sectoral Annex on Electrical Products
- (2) In the course of designation of the applicant conformity assessment body specified in Article 3 paragraph (1), the competent minister shall conduct an evaluation of the management system of overseas conformity assessment business in respect of the application as stipulated by the applicable ministerial ordinance.

(Renewal of Designation)

Article 6

- (1) The designation specified in Article 3 paragraph (1) must be renewed every year or longer period stipulated by cabinet order, or else lose effect with the elapse of such period.
- (2) The provisions of Article 3 paragraph (3), Article 4 and Article 5 shall apply mutatis mutandis to the renewal of designation pursuant to paragraph (1) of this Article.

(Changes of Designated Conformity Assessment Bodies, etc.)

Article 7

- (1) A designated conformity assessment body which intends to change any of the matters set forth in items iii) through v) of Article 3 paragraph (3) must first obtain approval from the competent minister; provided that this shall not apply to minor changes as set forth

in the applicable ministerial ordinance.

- (2) Any person who seeks approval for a change specified in paragraph (1) must file with the competent minister an application describing the matters relating to the change and other documents stipulated by the applicable ministerial ordinance.
- (3) The provisions of Article 5 shall apply mutatis mutandis to the approval of changes specified in paragraph (1).
- (4) Any conformity assessment body which changes any of the matters specified in Article 3 paragraph (3) item i) must notify the competent minister to that effect without delay.
- (5) When a change has been approved pursuant to the provisions of paragraph (1) (insofar as such a change relates to matters specified in Article 3 paragraph (3) item v)) or notice has been filed pursuant to the provisions of the paragraph (4) (insofar as such notice relates to a change of name or address), the competent minister shall issue a public notice to that effect.

(Suspension and Discontinuation of Business)

Article 8

- (1) A designated conformity assessment body must not suspend or discontinue in whole or in part the designated conformity assessment business without first filing notice to that effect with the competent minister as stipulated by the applicable ministerial ordinance.
- (2) When a notice is filed pursuant to the provisions of the paragraph (1), the competent minister shall issue a public notice to that effect.

(Book Keeping and Records Relating to Business)

Article 9

A designated conformity assessment body must prepare and maintain books and records relating to the designated conformity assessment business as stipulated by the applicable ministerial ordinance.

(Orders Issued to Approved Conformity Assessment Bodies)

Article 10

The competent minister may issue necessary supervisory orders relating to the designated conformity assessment business to a designated conformity assessment body where deemed necessary to ensure the proper implementation of the Agreement and this Law.

(Issuance of Public Notice of Registration, etc.)

Article 11

Upon being informed by the Joint Committee regarding any of the following matters pursuant to the provisions of paragraph 7 of Article 8 of the Agreement, the competent minister shall issue a public notice to that effect:

- i) Registration or termination thereof of a designated conformity assessment body.
- ii) Suspension of registration or lifting thereof of a designated conformity assessment body.

(Issuance of Certificates)

Article 12

- (1) A designated conformity assessment body which has been designated (except where registration has been suspended or designation has been suspended pursuant to the provisions of paragraph (1) of Article 13) may, in conducting overseas conformity assessment business, issue certificates of conformity with a special mark related to the designated conformity assessment business. Contents of the certificate and details of the special mark to be affixed to the certificate shall be in accordance with the applicable ministerial ordinance.
- (2) No person shall affix the special mark specified in paragraph (1) or any misleadingly similar mark to a certificate relating to overseas conformity assessment business except where provided for under paragraph (1).

(Withdrawal of Designation, etc.)

Article 13

- (1) The competent minister may withdraw or suspend designation when a designated conformity assessment body falls under any of the following items:
 - i) The conformity assessment body falls under either item i) or item iii) of Article 4.
 - ii) The conformity assessment body does not satisfy the criteria for designation stipulated in each of the items of Article 5 paragraph (1) (insofar as such criteria relate to the category of the designated overseas conformity assessment business).
 - iii) The conformity assessment body contravenes the provisions of Article 7 paragraphs (1) or (4), Article 9 or paragraph (2) of Article 12.
 - iv) The conformity assessment body contravenes an order pursuant to the provisions of Article 10.
 - v) The conformity assessment body has been designated pursuant to Article 3 paragraph (1) or an approval for a change pursuant to Article 7 paragraph (1) has been obtained through dishonest means.
 - vi) In addition to the matters specified in item (i) through item (v), any grounds specified by the applicable ministerial ordinance as grounds for fearing the hindrance of the faithful implementation of the Agreement apply to the conformity

assessment body.

- (2) In the event of withdrawal of designation pursuant to the provisions of paragraph (1), the competent minister must issue public notice to that effect and proceed to the procedures for termination of registration pursuant to the provisions of paragraph 4 of Article 9 of the Agreement in respect of the person whose designation was withdrawn.
- (3) In the event of the suspension of designation or lifting thereof pursuant to the provisions of paragraph (1), the minister shall issue public notice to that effect.

Chapter III Designated Accreditation Bodies

(Evaluations by Designated Accreditation Bodies)

Article 14

- (1) The competent minister may commission a person designated by him (hereinafter referred to as a “designated accreditation body”) to conduct evaluations in whole or in part pursuant to the provisions of Article 5 paragraph (2) (including Article 6 paragraph (2) and Article 7 paragraph (3) applied mutatis mutandis) (hereinafter referred to simply as “evaluations”).
- (2) Where a designated accreditation body is commissioned to conduct evaluations in whole or in part pursuant to the provisions of paragraph (1), the competent minister shall not conduct such evaluations in whole or in part. In such a case, the competent minister must make decision on the designation or renewal of designation stipulated in Article 3 paragraph (1) or approval of a change stipulated in Article 7 paragraph (1) taking into consideration the results of the evaluations of which the minister has been reported by the designated accreditation body pursuant to the provisions of paragraph (4).
- (3) Where a designated accreditation body is commissioned to conduct evaluations in whole or in part pursuant to the provisions of paragraph (1), the person intending to be designated specified in Article 3 paragraph (1), to have the designation renewed or to obtain an approval for a change specified in Article 7 paragraph (1) must apply to the designated accreditation body as stipulated by the applicable ministerial ordinance, notwithstanding the provisions of Article 3 paragraph 3 (including Article 6 paragraph (2) applied mutatis mutandis) and Article 7 paragraph (2), in respect of the evaluations conducted by the designated accreditation body.
- (4) Where a designated accreditation body conducts a evaluation in respect of an application specified in paragraph (3), it must report to the competent minister of the results of the evaluation without delay as stipulated by the applicable ministerial ordinance.

(Designation)

Article 15

Designation pursuant to the provisions of paragraph (1) of Article 14 (hereinafter referred to as “designation” in this Chapter and Article 36 paragraph (3)) shall be made upon application by a person intending to conduct evaluations as stipulated by the applicable ministerial ordinance.

(Disqualification Criteria)

Article 16

Designation will not be obtained by any person who falls under any of the following disqualification criteria:

- i) Any person who contravenes this Law or any dispositions made under this Law and has been sentenced to a fine or severer penalty, if a period of two years has not yet elapsed since the day on which the sentence was served or the stay of execution was suspended.
- ii) Any person whose designation was withdrawn pursuant to the provisions of Article 27 paragraph (1), if a period of two years has not yet elapsed since the day of withdrawal.
- iii) Any person who is a juridical person, one or more of whose officers engaged in its activities falls under either of the above mentioned disqualification criteria.

(Criteria for Designation)

Article 17

The competent minister shall not grant designation unless he deems that the applicant satisfies all of the following designation criteria:

- i) The applicant has an adequate financial basis and technical capability to properly and smoothly execute the evaluation activities.
- ii) In the case of a juridical person, the applicant’s officers and the composition of the members stipulated by the applicable ministerial ordinance corresponding to the type of juridical person do not threaten to impede the fair conduct of evaluations.
- iii) In addition to the matters stipulated in item (i) and (ii), the applicant satisfies the criteria set forth in the applicable ministerial ordinance so that the evaluation shall not be conducted unfairly.
- iv) The designation will not harm the smooth and proper conduct of evaluations in respect of applications.

(Issuance of Public Notice of Designation, etc.)

Article 18

- (1) Where designation is granted, the competent minister shall give public notice of the name and address of the designated accreditation body, location of the offices where accreditation activities are performed, and the scope of accreditation (category of overseas conformity assessment business) for which evaluations are conducted by the designated accreditation body.
- (2) A designated accreditation body which intends to change its name or address or the location of offices where evaluation activities are conducted must file notice with the competent minister no later than two weeks prior to the date on which it intends to effect such change.
- (3) Where notice is filed pursuant to the provisions of paragraph (2), the competent minister must issue public notice to that effect.

(Renewal of Designation)

Article 19

- (1) Designation must be renewed every three years or a longer period stipulated by cabinet order, or else lose effect with the elapse of such period.
- (2) The provisions of Article 15 through 17 shall apply mutatis mutandis to the renewal of designation specified in paragraph (1).

(Confidentiality, etc.)

Article 20

- (1) The officers (or persons designated in the case of a designated accreditation body which is not a juridical person; the same shall apply in paragraph (2), Article 46 and Article 49) and staff of a designated accreditation body and persons who formerly held such positions shall not disclose confidential information which has come to such persons' knowledge in respect of the evaluation activities.
- (2) The officers or staffs of a designated accreditation body employed in evaluation activities shall be deemed to be staffs legally employed in public service for the purpose of application of the Criminal Law (Law No. 45, 1907) and other penal regulations.

(Duty to Evaluation)

Article 21

Where requested to conduct an evaluation, a designated accreditation body must conduct the evaluation without delay except where there exist legitimate reasons not to do so.

(Appointment and Dismissal of Officers)

Article 22

A designated accreditation body must upon the appointment or dismissal of officers file notification to that effect with the competent minister without delay.

(Rules and Procedures for Evaluation)

Article 23

- (1) A designated accreditation body must establish rules and procedures regarding evaluation activities (hereinafter referred to as “evaluation rules and procedures”) and obtain the approval of the competent minister. The same shall apply where a designated accreditation body intends to change such rules and procedures.
- (2) The matters which should be set forth in the evaluation rules and procedures shall be stipulated by the applicable ministerial ordinance.
- (3) The competent minister may order that the evaluation rules and procedures approved pursuant to paragraph (1) be changed if deemed inappropriate to the fair conduct of evaluations.

(Book Keeping and Records)

Article 24

A designated accreditation body shall prepare and maintain books and records concerning matters stipulated by the applicable ministerial ordinance in respect of evaluation activities.

(Supervisory Orders)

Article 25

The competent minister may, where deemed necessary to the enforcement of this Law, issue to a designated accreditation body the necessary supervisory orders regarding evaluation activities.

(Suspension and Discontinuation of Activities)

Article 26

- (1) A designated accreditation body shall not suspend or discontinue in whole or in part any evaluation activities without the authorization of the competent minister.
- (2) Where the authorization specified in paragraph (1) is given, the minister shall issue public notice to that effect.

(Revocation of Designation, etc.)

Article 27

- (1) Where a designated accreditation body falls under any of the following items, the competent minister may withdraw its designation or order the suspension in whole or in part of its evaluation activities for a term specified by the minister:
 - i) The accreditation body contravenes the provisions of this Chapter.
 - ii) The accreditation body falls under either item i) or item iii) of Article 16.
 - iii) The accreditation body no longer satisfies any of items i) through iii) of Article 17.
 - iv) The accreditation body does not conduct its evaluation activities in accordance with the evaluation rules and procedures approved pursuant to Article 23 paragraph (1).
 - v) The accreditation body infringes an order issued pursuant to the provisions of Article 23 paragraph (3) or Article 25.
 - vi) The accreditation body has been designated through dishonest means.
- (2) Where the competent minister withdraws designation or orders the suspension in whole or in part of evaluation activities pursuant to the provisions of paragraph (1), the minister shall issue public notice to that effect.

(Performance of Evaluation Activities by Competent Ministers)

Article 28

- (1) In the event that a designated accreditation body suspends in whole or in part evaluation activities pursuant to the provisions of Article 26 paragraph (1), a designated accreditation body is ordered to suspend in whole or in part evaluation activities pursuant to the provisions of paragraph (1) of Article 27, or a natural disaster or other cause impede the conduct of evaluation activities by a designated accreditation body, the competent minister shall conduct evaluation activities in whole or in part by himself.
- (2) Where the competent minister conducts evaluation activities pursuant to the provisions of paragraph (1) or ceases to conduct evaluation activities thus far conducted by him pursuant to the provisions of the same paragraph, the minister shall first issue public notice to such effect.
- (3) Matters regarding the transfer of evaluation activities and other necessary matters in the event of the performance of evaluation activities pursuant to the provisions of paragraph (1) by the competent minister and the permission by the competent minister of the discontinuation of evaluation activities pursuant to the provisions of Article 26 paragraph (1) or the withdrawal of designation stipulated in paragraph (1) of Article 28 shall be determined by the applicable ministerial ordinance.

Chapter IV Exceptions under the Telecommunications Business Law, etc.

Section 1 Registered Foreign Conformity Assessment Bodies

(Definitions)

Article 29

The term “registered foreign conformity assessment body” as used in this chapter means a conformity assessment body of the European Community which has been designated (as stipulated in sub-paragraph (c) of paragraph 1 of Article 1 of the Agreement; the same shall apply hereinafter in this Article and the following Article) by a Designating Authority of the European Community (as stipulated in sub-paragraph (d) of paragraph 1 of Article 1 of the Agreement) and registered (except where such designation or registration has been suspended).

(Issuance of Public Notice of Registration, etc.)

Article 30

- (1) The competent minister, when informed of the following matters by the Joint Committee pursuant to the provisions of paragraph 7 of Article 8 of the Agreement, shall issue public notice to that effect:
 - i) Registration or termination of registration of a conformity assessment body of the European Community.
 - ii) Suspension of registration or lifting of suspension of registration of a conformity assessment body of the European Community.
- (2) The competent minister, when informed of the suspension of registration or lifting of suspension of designation of a conformity assessment body by the European Community pursuant to the provisions of paragraphs 1 or 2 of Article 6 of the Agreement, shall issue public notice to that effect.

Section 2 Exceptions under the Telecommunications Business Law

Article 31

- (1) For the purpose of application of the provisions of Article 51 paragraph (1) of the Telecommunications Business Law, the following terminal equipment shall be regarded as terminal equipment for which compliance with relevant technical conditions has been approved as specified in Article 50 paragraph (1) of the same law:
 - i) Terminal equipment approved as complying with the technical conditions set forth in the Ministry of Public Management, Home Affairs, Posts and

Telecommunications ordinance specified in Article 49 paragraph (1) of the Telecommunications Business Law by a registered foreign conformity assessment body (insofar as such body is registered in each of the same categories as stipulated in the Ministry of Public Management, Home Affairs, Posts and Telecommunications ordinance specified in Article 68 paragraph (2) of the same law as a person to approve compliance with the technical conditions set forth in the Ministry of Public Management, Home Affairs, Posts and Telecommunications ordinance stipulated in Article 49 paragraph (1) of the same law; the same shall apply hereinafter in this Article) to which the mark stipulated in the Ministry of Public Management, Home Affairs, Posts and Telecommunications ordinance has been affixed by the registered foreign conformity assessment body (provided that such terminal equipment pertains to the category in which the registered conformity assessment body is registered; the same shall apply in the following item).

- ii) Terminal equipment based on a type (including the method to verify that each terminal equipment conforms to the type) where such type has been certified as complying with the technical conditions set forth in the Ministry of Public Management, Home Affairs, Posts and Telecommunications ordinance specified in Article 49 paragraph (1) of the Telecommunications Law by a registered foreign conformity assessment body in response to an application by a foreign dealer specified in Article 50-4 paragraph (2) of the same law (hereinafter referred to as a “foreign dealer” in this Article) to which the mark stipulated in the Ministry of Public Management, Home Affairs, Posts and Telecommunications ordinance has been affixed by the registered foreign conformity assessment body.
- (2) Except where the mark specified in item i) of paragraph (1) is affixed by a registered conformity assessment body or the mark specified in item ii) of paragraph (1) is affixed by a foreign dealer which has obtained the certification specified in the same item, no person shall affix such marks or misleadingly similar marks to terminal equipment in Japan.

Article 32

For the purpose of application of the provisions of Article 50 paragraph (3) (including Article 72-2 paragraph (3) and Article 72-3 paragraph (5) applied mutatis mutandis) and Article 50-4 paragraph (4) (including Article 72-2 paragraph (3) and Article 72-3 paragraph (8) applied mutatis mutandis) of the Telecommunications Business Law, a registered foreign conformity assessment body (insofar as such body is registered in each of the same categories as set forth in the Ministry of Public Management, Home Affairs, Posts and Telecommunications ordinance stipulated in the same paragraph as a person to conduct the examination business

stipulated in Article 50-2 paragraph (1) of the same law) shall be regarded as a person who has obtained the approval stipulated in Article 50-3 paragraph (1) of the same law.

Section 3 Exceptions under the Radio Law

Article 33

- (1) For the purpose of application of the provisions of Article 4 (insofar as relating to item ii) and item iii)), Article 13 paragraph (2), Article 15 and Article 27-2, the following specified radio equipment shall be regarded as specified radio equipment for which conformity with technical regulations has been certified as specified in Article 38-2 paragraph (1) of the same law:
 - i) Specified radio equipment certified as complying with the technical regulations set forth in Chapter III of the Radio Law by a registered foreign conformity assessment body (insofar as such body is registered in each of the same categories set forth in the Ministry of Public Management, Home Affairs, Posts and Telecommunications ordinance specified in Article 38-2 paragraph (2) of the same law as a person to certify that radio equipment complies with the technical regulations set forth in the same chapter of the same law; the same shall apply hereinafter in this article) to which the mark stipulated in the Ministry of Public Management, Home Affairs, Posts and Telecommunications ordinance has been affixed by the registered foreign conformity assessment body (provided that such radio equipment pertains to the category in which the registered conformity assessment body is registered; the same shall apply in the following item).
 - ii) Specified radio equipment based on a construction type (including the method to verify each equipment conforms to the type) where such construction type has been certified as complying with the technical regulations set forth in Chapter III of the Radio Law by a registered foreign conformity assessment body in response to an application by a foreign dealer specified in Article 38-16 paragraph (2) of the same law (hereinafter referred to as a “foreign dealer” in this Article) to which the mark stipulated in the Ministry of Public Management, Home Affairs, Posts and Telecommunications ordinance has been affixed by the registered foreign conformity assessment body.
- (2) Except where the mark specified in item i) of paragraph (1) is affixed by a registered foreign conformity assessment body or the mark specified in item ii) of paragraph (1) is affixed by a foreign dealer which has obtained the certification specified in item, no person shall affix such marks or misleadingly similar marks to radio equipment in Japan.
- (3) Any person who modifies specified radio equipment bearing the mark affixed by a registered foreign conformity assessment body as stipulated in paragraph (1) item i) or

the mark affixed by a foreign dealer which has obtained certification as stipulated in item ii) of the same paragraph must remove the mark by the method stipulated in the Ministry of Public Management, Home Affairs, Posts and Telecommunications ordinance.

Article 34

For the purpose of application of the provisions of Article 38-2 paragraph (5) (including Article 38-17 paragraph (5) applied mutatis mutandis) and Article 38-16 paragraph (4) (including the provisions of Article 38-17 paragraph (8) applied mutatis mutandis) of the Radio Law, a registered foreign conformity assessment body (insofar as such body is registered in each of the same categories as set forth in the Ministry of Public Management, Home Affairs, Posts and Telecommunications ordinance stipulated in the same paragraph as a person to conduct the inspection business specified in Article 24-2 paragraph (1) of the same law) shall be regarded as a person who has obtained the approval stipulated in Article 24-9 paragraph (1) of the same law.

Section 4 Exceptions under the Electrical Appliance and Material Safety Law

Article 35

Where a reporting supplier specified in Article 4, paragraph (1) of the Electrical Appliance and Material Safety Law keeps any of the certificates described under any of the following items before sale of the specified electrical appliances and materials relating to manufacture or import thereby (except manufactured or imported electrical appliances and materials under the provisions of the proviso to Article 8, paragraph (1) of the same law), the reporting supplier shall be treated as having undergone conformity assessment pursuant to the same paragraph, obtained a certificate pursuant to the same paragraph, and keeping such certificate pursuant to the provisions of the main clause of Article 9, paragraph (1) of the same law.

- i) Certificate issued to the reporting supplier in respect of the specified electrical appliances and materials (insofar as such specified electrical appliances and materials are of the classification registered; the same shall apply in the following item) by a registered foreign conformity assessment body (insofar as such body is registered in each of the same classifications as stipulated in the Ordinance of the Ministry of Economy, Trade and Industry specified in Article 29, paragraph (1) of the Electrical Appliance and Material Safety Law as a person to conduct conformity assessment pursuant to Article 9, paragraph (1) of the same law), provided that it certifies conformity in accordance with the technical requirements stipulated in Article 8, paragraph (1) of the same law and/or the requirements for testing facilities and other

matters stipulated in the Ordinance of the Ministry of Economy, Trade and Industry noted in Article 9, paragraph (2) of the same law in any of the items in Article 9, paragraph (1) of the same law (hereinafter referred to in this Article as an “international certificate”).

- ii) An international certificate obtained in respect of a specified electrical appliance and material of the same type as the specified electrical appliance and material (insofar as relating to Article 9, paragraph (1), item ii) of the Electrical Appliance and Material Safety Law), provided that the period stipulated in the proviso to the same paragraph has not yet passed from the date of issue of the certificate.
- iii) A certificate specified by the Ordinance of the Ministry of Economy, Trade and Industry as equivalent to the international certificate described in items i) and ii).

Chapter V Miscellaneous Provisions

(Performance of Evaluation Activities by the NITE)

Article 36

- (1) The competent minister (insofar as the competent minister is the Minister of Economy, Trade and Industry pursuant to the provisions of Article 44 paragraph (1); the same shall apply hereinafter in this article, paragraphs (4) through (6) of the following article, and Article 39), may, if deemed necessary, where evaluation activities are conducted by the minister, ask an independent administrative institution called the National Institute of Technology and Evaluation (hereinafter referred to as “NITE”) to conduct in whole or in part such investigative activities.
- (2) The provisions of paragraphs (2) through (4) of Article 14 shall apply mutatis mutandis to the conduct of evaluation activities by the NITE pursuant to the provisions of paragraph (1). In such case, “designated accreditation body” in these provisions shall read “NITE”.
- (3) Where the competent minister authorizes the discontinuation of evaluation activities pursuant to the provisions of Article 26 paragraph (1), revokes designation pursuant to the provisions of Article 27 paragraph (1), or conducts evaluation activities in whole or in part by himself pursuant to the provisions of Article 28 paragraph (1), matters regarding the transfer of evaluation activities and other matters necessary in the event that the conduct of evaluation activities is commissioned in whole or in part to the NITE pursuant to the provisions of paragraph (1) shall be determined by applicable ministerial ordinance.
- (4) Where the competent minister decides to ask the NITE to conduct in whole or in part evaluation activities pursuant to the provisions of paragraph (1) or chooses no longer to

ask the NITE to conduct in whole or in part evaluation activities thus far conducted by the NITE, the minister must issue public notice to that effect.

(On-site Inspection, etc.)

Article 37

- (1) To the extent necessary to the enforcement of this Law, the competent minister may require a designated conformity assessment body to report on its approved business or delegate ministerial staffs to conduct on-site inspection at the offices or other places of work of a designated conformity assessment body concerned to check the state of approved business or facilities, books and records and other properties, or to make inquiries of the persons concerned.
- (2) To the extent necessary for the enforcement of this Law, the competent minister may require a designated accreditation body to report on its activities or delegate ministerial staffs to conduct on-site inspection at the offices of a designated accreditation body concerned to check the state of activities or books and records and other properties, or to make inquiries of the persons concerned.
- (3) Any staff who conducts the on-site inspection or makes inquiries specified in paragraph (1) and paragraph (2) shall carry an identification card and present it to the persons concerned.
- (4) Where deemed necessary, the competent minister may ask the NITE to conduct an on-site inspection or make inquiries pursuant to the provisions of paragraph (1) or paragraph (2).
- (5) Where the NITE is asked to conduct an on-site inspection or make inquiries pursuant to the provisions of paragraph (4), the competent minister shall inform the NITE the location of the conformity assessment body concerned and other necessary matters to conduct such on-site inspection.
- (6) Where an on-site inspection or inquiry is conducted as provided for by paragraph (4) in accordance with an instruction by the competent minister specified in paragraph (5), the NITE must report the results thereof to the competent minister.
- (7) Any staff of the NITE who conducts the on-site inspection or inquiry pursuant to the provisions of paragraph (4) must carry an identification card and present it to the persons concerned.
- (8) The powers granted under the provisions of paragraph (1) and paragraph (2) shall not be construed as being invested for the purpose of detecting a crime.

Article 38

Where the Joint Committee decides to conduct a joint verification pursuant to the provisions of paragraph 2 of Article 7 or sub-paragraph (c) of paragraph 1 of Article 9 of the Agreement,

the competent minister may allow staff of the European Community designated by the Joint Committee to conduct on-site inspection at the offices or other places of work of a designated conformity assessment body concerned and check the state of approved business or facilities, books and records, and other properties, or to make inquiries of the persons concerned in the presence of the staff specified in the same paragraph when an on-site inspection or inquiries are conducted pursuant to the provisions of paragraph (1) of Article 37; provided that this shall not apply without the consent of the person who is the subject of the on-site inspection or inquiries pursuant to the provisions of the same paragraph.

(Issuance of Orders to the NITE)

Article 39

Where deemed necessary to the proper conduct of on-site inspection or inquiry activities pursuant to the provisions of Article 37 paragraph (4), the competent minister may issue the necessary orders regarding such activities to the NITE.

(Fees)

Article 40

- (1) The following persons must pay to the Government the amount of fees which shall be specified by a cabinet order taking into account actual expenses:
 - i) Any person who intends to obtain or renew the designation specified in Article 3 paragraph (1).
 - ii) Any person who intends to obtain approval for a change specified in Article 7 paragraph (1).
- (2) Any person who intends to undergo an evaluation conducted by the NITE must pay to the NITE an amount of fees which shall be specified by a cabinet order taking into account actual expenses.
- (3) Fees paid to the NITE pursuant to the provisions of paragraph (2) shall be the revenue of the NITE.
- (4) Any person who intends to undergo an evaluation conducted by a designated accreditation body must pay to the designated accreditation body an amount of fees the designated accreditation body determines with the approval of the competent minister as stipulated by a cabinet order.
- (5) Fees paid to a designated accreditation body pursuant to the provisions of paragraph (4) shall be the revenue of the designated accreditation body.

(Demand for Examination)

Article 41

Any person dissatisfied with any disposition or omission of the NITE or a designated accreditation body under the provisions of this Law may file a request with the competent minister for an examination under the Law for Examination Concerning Dissatisfaction with Administration Law (Law No. 160, 1962).

(Transitional Measures)

Article 42

Where any cabinet order or applicable ministerial ordinance is established, amended or abolished under the provisions of this Law, provision may be made for the necessary transitional measures (including transitional measures relating to penal provisions) to the extent deemed reasonably necessary in establishing, amending or abolishing the respective cabinet order or applicable ministerial ordinance.

(Consultation with the Minister of Economy, Trade and Industry)

Article 43

Where any applicable ministerial ordinance specified in Article 5 paragraph (1) (insofar as related to item i)) and Article 17 item iii) is established, amended or abolished, the competent minister must first consult with the Minister of Economy, Trade and Industry.

(Competent Ministers, etc.)

Article 44

- (1) The competent minister in Chapter II, Chapter III and this Chapter shall be as follows:
 - i) The Minister of Public Management, Home Affairs, Posts and Telecommunications in respect of matters regarding overseas conformity assessment business pertaining to Article 2 paragraph (8) item i).
 - ii) The Minister of Public Management, Home Affairs, Posts and Telecommunications and Minister of Economy, Trade and Industry in respect of matters regarding overseas conformity assessment business pertaining to item ii) and item iii) of Article 2 paragraph (8).
 - iii) The Minister of Economy, Trade and Industry in respect of matters regarding overseas conformity assessment business pertaining to item iv) and item v) of Article 2 paragraph (8).
- (2) The competent minister in Article 30 shall be as follows:
 - i) The Minister of Public Management, Home Affairs, Posts and Telecommunications in respect of matters regarding conformity assessment bodies of the European

- Community subject to the provisions of Chapter IV Sections 2 and 3.
- ii) The Minister of Economy, Trade and Industry in respect of matters regarding conformity assessment bodies of the European Community subject to the provisions of Section 4 of Chapter IV.
- (3) The applicable ministerial ordinance in Chapters II and III and this Chapter shall be the orders issued by the competent minister stipulated in paragraph (1).

Chapter VI Penal Provisions

Article 45

Any person who disclose any confidential information which has come to such person's possession with respect to such person's duties in contravention of the provisions of Article 20 paragraph (1) shall be sentenced to penal servitude for a term not exceeding one year or to a fine not exceeding one million yen.

Article 46

In the event of contravention of an order to suspend activities pursuant to the provisions of Article 27 paragraph (1), the officers or staffs of the designated accreditation body committing such violation shall be sentenced to penal servitude for a term not exceeding one year or to a fine not exceeding one million yen.

Article 47

Any person who comes under any of the following items shall be sentenced to a fine not exceeding five hundred thousand yen:

- i) Any person who contravenes the provisions of Article 12 paragraph (2).
- ii) Any person who contravenes the provisions of Article 31 paragraph (2) or Article 33 paragraphs (2) or (3).

Article 48

Any person who comes under any of the following items shall be sentenced to a fine not exceeding three hundred thousand yen:

- i) Any person who changes the matters specified in items iii) through v) of Article 3 paragraph (3) in contravention of the provisions of Article 7 paragraph (1).
- ii) Any person who fails to prepare or maintain books and records or who prepares false books and records pursuant to the provisions of Article 9.
- iii) Any person who fails to make a report or makes any false report pursuant to the provisions of Article 37 paragraph (1), or refuses, obstructs or evades any on-site inspection pursuant to the provisions of the same paragraph, or fails to answer or

gives a false answer to an inquiry pursuant to the provisions of the same paragraph.

Article 49

Where a designated accreditation body comes under any of the following items, any officer or staff of such body which commits such violation shall be sentenced to a fine not exceeding three hundred thousand yen:

- i) Any body which fails to keep or maintain books and records or makes no entry or makes a false entry in contravention the provisions of Article 24.
- ii) Any body which wholly discontinues evaluation activities in contravention of the provisions of Article 26 paragraph (1).
- iii) Any body which fails to make a report under the provisions of Article 37 paragraph (2) or makes any false report, or refuses, obstructs or evades on-site inspection under the provisions of the same paragraph, or fails to answer or gives a false answer to an inquiry under the provisions of the same paragraph.

Article 50

When any representative of a juridical person, or any agent, employee or other operator of a person or juridical person commits a violation referred to in Article 47 or Article 48 in respect of the activities of the juridical person or person concerned, not only the violator shall be punished but also the person or juridical person concerned shall be punished by the fine under the applicable Article.

Article 51

In the event of the contravention of an order pursuant to the provisions of Article 39, the officers of the NITE committing the violation shall be liable to a non-penal fine not exceeding two hundred thousand yen.

Article 52

Any person who fails to file notice or files a false notice pursuant to the provisions of Article 7 paragraph (4) or Article 8 paragraph (1) shall be liable to a non-penal fine not exceeding one hundred thousand yen.

Supplementary Provisions

(Date of Enforcement)

Article 1

This Law shall come into force from the date on which the Agreement enters effect. However, the provisions of the following articles shall come into force from the date stipulated by

cabinet order which shall be issued within six months from the day of promulgation of this Law.

(Preparatory Actions)

Article 2

Designation pursuant to the provisions of Article 14 paragraph (1), related procedures and other necessary action may be performed after the manner provided for in Articles 15 through 17, Article 18 paragraph (1) and Article 23 paragraphs (1) and (2) even if prior to the enforcement of this Law.

(Partial Amendment of the National Institute of Technology and Evaluation Law)

Article 3

The National Institute of Technology and Evaluation Law (Law No. 204, 1999) shall be partially amended as follows.

The following item shall be added to Article 11 paragraph (2):

ix) on-site inspection or inquiry pursuant to the provisions of Article 37 paragraph (4) of the Law on Mutual Recognition with the European Community of Conformity Assessment of Specified Equipment (Law No.111, 2001)