

IMPLEMENTING AGREEMENT BETWEEN THE GOVERNMENT OF JAPAN
AND THE GOVERNMENT OF THE REPUBLIC OF PERU
PURSUANT TO ARTICLE 16 OF THE AGREEMENT BETWEEN JAPAN
AND THE REPUBLIC OF PERU FOR AN ECONOMIC PARTNERSHIP

Table of Contents

Preamble

Chapter 1 Customs Procedures and Trade Facilitation

Article 1 Mutual Assistance

Article 2 Information and Communications Technology,
and Risk Management

Article 3 Authorized Economic Operator

Article 4 Enforcement against Illicit Trafficking

Article 5 Intellectual Property Rights

Article 6 Exchange of Information

Article 7 Exceptions

Chapter 2 Competition

Article 8 Objective

Article 9 Definitions

Article 10 Notification

Article 11 Cooperation in Enforcement Activities

Article 12 Coordination of Enforcement Activities

Article 13 Cooperation Regarding Anticompetitive
Activities in the Country of One Party that
Adversely Affect the Interests of the Other
Party

Article 14 Avoidance of Conflicts over Enforcement
Activities

Article 15 Technical Cooperation

Article 16 Transparency

Article 17 Consultations

Article 18 Confidentiality of Information

Article 19	Use of Information for Criminal Proceedings
Article 20	Communications
Article 21	Miscellaneous
Chapter 3	Cooperation
Article 22	Trade and Investment Promotion
Article 23	Industry
Article 24	Fisheries
Article 25	Science and Technology and Environment
Article 26	Information and Communications Technology
Article 27	Tourism
Article 28	Agriculture
Article 29	Transport
Chapter 4	Final Provisions
Article 30	Implementation
Article 31	Table of Contents and Headings
Article 32	Amendment
Article 33	Entry into Force
Article 34	Dispute Settlement

Preamble

The Government of Japan and the Government of the Republic of Peru, hereinafter collectively referred as to the "Parties", and individually referred to as the "Party",

In accordance with Article 16 of the Agreement between Japan and the Republic of Peru for an Economic Partnership (hereinafter referred to as "the Basic Agreement"),

HAVE AGREED as follows:

Chapter 1
Customs Procedures and Trade Facilitation

Article 1
Mutual Assistance

1. The Parties shall assist each other through their customs authorities to ensure proper application of customs laws, and to prevent, investigate and repress any violation or attempted violation of customs laws.

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

3. Upon request, the requested Party shall provide the requesting Party with the following information:

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

(b) whether goods exported from the customs territory of the country of the requesting Party have been lawfully imported into the customs territory of the country of the requested Party.

4. The information provided pursuant to paragraph 3 shall, upon request, contain a reference to the customs procedures used for clearing the goods.

5. The Party shall, upon request, provide information relating to transportation and shipment of goods showing value, description, disposition and destination of those goods declared to its customs authority.

6. Requests and responses to the requests shall be submitted in English. Responses to the requests shall be provided not later than 90 days from receiving the written or electronic requests.

Article 2
Information and Communications Technology,
and Risk Management

1. The customs authorities of the Parties shall promote the use of information and communications technology for risk management used in the application of customs control.
2. The customs authorities of the Parties shall exchange information, including best practices, on the use of information and communications technology and on risk management techniques and other enforcement techniques for the purpose of improving customs procedures.

Article 3
Authorized Economic Operator

Each Party shall endeavor to take appropriate measures to implement the Authorized Economic Operator (AEO) programs according to the WCO SAFE Framework of Standards to secure and facilitate global trade adopted by the Customs Co-operation Council.

Article 4
Enforcement against Illicit Trafficking

1. The customs authorities of the Parties shall, within their respective competence, cooperate and exchange information in their enforcement against the trafficking of illicit drugs and other prohibited goods at their customs checkpoints.
2. The Parties shall endeavor to promote cooperation under the Customs Co-operation Council in fighting trafficking of illicit drugs and other prohibited goods at their customs checkpoints.

Article 5
Intellectual Property Rights

The customs authorities of the Parties shall, within their respective competence, cooperate and exchange information in the application of border measures under the provisions of Article 182 of the Basic Agreement.

Article 6
Exchange of Information

1. Each Party shall maintain the confidentiality of any information communicated to it in confidence by the other Party, pursuant to this Chapter, unless the other Party consents to the disclosure of such information.
2. Information provided from the customs authority of a Party to the customs authority of the other Party pursuant to this Chapter shall be used only in the exercise of functions of the latter customs authority under its country's customs laws.
3. Each Party may limit the information it communicates to the other Party when the other Party is unable to give the assurance requested by the former Party with respect to the maintenance of confidentiality or the limitations of purposes for which the information will be used.
4. If a Party that requests information would be unable to comply with a similar request in case such a request were made by the other Party, the former Party shall draw attention to that fact in its request. Execution of such a request shall be at the discretion of the other Party.
5. Information provided pursuant to this Chapter shall not be used by the Party that receives information in criminal proceedings carried out by a court or a judge.
6. In the event that information communicated by a Party to the other Party pursuant to this Chapter is needed for presentation to a court or a judge in criminal proceedings, the other Party shall submit a request for such information to the former Party through the diplomatic channel or other channels established in accordance with the laws of the country of the former Party. The former Party will make its best efforts to respond promptly and favorably to meet any reasonable deadlines indicated by the other Party.
7. When either Party considers that information is relevant to the serious customs offence that could involve substantial damage to the economy, public health, public security or any other vital interest of the country of the other Party, the former Party shall, on its own initiative, provide the other Party with such information.

Note: For the purposes of this paragraph, the term "customs offence" means any violation or attempted violation of customs laws.

Article 7
Exceptions

1. The Parties may refuse to communicate information pursuant to this Chapter, where to do so would:
 - (a) be likely to prejudice their sovereignty, public policy, security or other essential interests;
 - (b) violate an industrial, commercial or professional secret; or
 - (c) be prohibited by the laws and regulations of the country of the requested Party.

2. If a Party cannot comply with a request for information made by the other Party, the former Party shall notify the latter Party of that fact and reason as soon as possible.

Chapter 2
Competition

Article 8
Objective

The objective of this Chapter is to provide for the details and procedures concerning the implementation of the cooperation set forth in Article 190 of the Basic Agreement.

Article 9
Definitions

For the purposes of this Chapter:

- (a) the term "competition authority" means:
 - (i) for Japan, the Fair Trade Commission, or its successor; and
 - (ii) for the Republic of Peru (hereinafter referred to as "Peru"), the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI) and the Supervisory Body for Private Investment in Telecommunications (OSIPTEL), or their successors;
- (b) the term "competition law" means:
 - (i) for Japan, the Law Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade (Law No. 54, 1947) (hereinafter referred to in this Chapter as "the Antimonopoly Law") and its implementing regulations as well as any amendments thereto; and

- (ii) for Peru, the Repression of Anticompetitive Conducts Law (Legislative Decree No. 1034 of June 25, 2008) and the Antimonopoly and Antioligopoly Law of the Electricity Sector (Law No. 26876 of November 19, 1997) and their implementing regulations as well as any modifications thereof; and
- (c) the term "enforcement activities" means any investigation or proceeding conducted by a Party in relation to the application of the competition law of its country, but shall not include:
 - (i) the review of business conduct or routine filings; and
 - (ii) research, studies or surveys with the objective of examining the general economic situation or general conditions in specific sectors.

Article 10
Notification

1. The competition authority of each Party shall notify the competition authority of the other Party of the enforcement activities of the notifying Party that the notifying competition authority considers may affect the important interests of the other Party.
2. Enforcement activities of a Party that may affect the important interests of the other Party include those that:
 - (a) are relevant to enforcement activities of the other Party;
 - (b) are against a national or nationals of the country of the other Party, or against a company or companies incorporated or organized under the applicable laws and regulations of the country of the other Party;
 - (c) involve mergers or acquisitions in which:
 - (i) one or more of the parties to the transaction; or

(ii) a company controlling one or more of the parties to the transaction,

is a company incorporated or organized under the applicable laws and regulations of the country of the other Party;

(d) involve anticompetitive activities, other than mergers or acquisitions, substantially carried out in the country of the other Party;

(e) involve conduct considered by the notifying competition authority to have been required, encouraged or approved by the other Party; or

(f) involve relief that requires or prohibits conduct in the country of the other Party.

3. Provided that it is not contrary to the laws and regulations of the country of the notifying competition authority and does not affect any investigation or proceeding being carried out by the Party of the notifying competition authority, notification pursuant to paragraph 1 shall be given as promptly as possible when the competition authority of a Party becomes aware that the enforcement activities of its Party may affect the important interests of the other Party.

4. Notifications provided under this Article shall be sufficiently detailed to enable the notified competition authority to make an initial evaluation of the effect on the important interests of its Party.

Article 11

Cooperation in Enforcement Activities

1. The competition authority of each Party shall render assistance to the competition authority of the other Party in its enforcement activities to the extent consistent with the laws and regulations of the country of the assisting competition authority and the important interests of the Party of the assisting competition authority, and within its reasonably available resources.

2. In accordance with paragraph 1, the competition authority of each Party shall:

- (a) inform the competition authority of the other Party with respect to its enforcement activities involving anticompetitive activities that it considers may also have an adverse effect on competition in the country of the other Party;
- (b) provide the competition authority of the other Party with any significant information, within its possession and that comes to its attention, about anticompetitive activities that it considers may be relevant to, or may warrant, enforcement activities by the competition authority of the other Party; and
- (c) provide the competition authority of the other Party, upon request and in accordance with the provisions of this Chapter, with information within its possession that is relevant to the enforcement activities of the competition authority of the other Party.

Article 12
Coordination of Enforcement Activities

1. Where the competition authorities are pursuing enforcement activities with regard to matters that are related to each other:
 - (a) the competition authorities shall consider coordination of their enforcement activities; and
 - (b) the competition authority of each Party shall consider, upon request by the competition authority of the other Party and where consistent with the important interests of the former Party, inquiring whether persons who have provided confidential information in connection with the enforcement activities will consent to the sharing of such information with the competition authority of the other Party.
2. In considering whether particular enforcement activities should be coordinated, the competition authorities should take into account, among others, the following factors:

- (a) the effect of such coordination on their ability to achieve the objectives of their enforcement activities;
- (b) the relative abilities of the competition authorities to obtain information necessary to conduct the enforcement activities;
- (c) the extent to which the competition authority of either Party can secure effective relief against the anticompetitive activities involved;
- (d) the possible reduction of cost to the Parties and to the persons subject to the enforcement activities; and
- (e) the potential advantages of coordinated relief to the Parties and to the persons subject to the enforcement activities.

3. The competition authority of each Party may, subject to appropriate notification to the competition authority of the other Party, at any time, limit or terminate the coordination of enforcement activities and pursue its enforcement activities independently.

Article 13

Cooperation Regarding Anticompetitive Activities in the Country of One Party that Adversely Affect the Interests of the Other Party

1. If the competition authority of a Party believes that anticompetitive activities carried out in the country of the other Party adversely affect the important interests of the former Party, the competition authority of the former Party, taking into account the importance of avoiding conflicts resulting from its enforcement activities with regard to such anticompetitive activities and taking into account that the competition authority of the other Party may be in a position to conduct more effective enforcement activities with regard to such anticompetitive activities, may request that the competition authority of the other Party initiate appropriate enforcement activities.

2. The request made pursuant to paragraph 1 shall be as specific as possible about the nature of the anticompetitive activities and their effect on the important interests of the Party of the requesting competition authority, and shall include an offer of such further information and other cooperation as the requesting competition authority is able to provide.

3. The requested competition authority shall carefully consider whether to initiate enforcement activities, or whether to expand ongoing enforcement activities, with respect to the anticompetitive activities identified in the request made pursuant to paragraph 1. The requested competition authority shall inform the requesting competition authority of its decision as soon as practically possible. If enforcement activities are initiated, the requested competition authority shall inform the requesting competition authority of their outcome and, to the extent possible, of significant interim developments.

Article 14

Avoidance of Conflicts over Enforcement Activities

1. Each Party shall give careful consideration to the important interests of the other Party throughout all phases of its enforcement activities, including decisions regarding the initiation of enforcement activities, the scope of enforcement activities and the nature of penalties or relief sought in each case.

2. When either Party informs the other Party that specific enforcement activities of the latter Party may affect the important interests of the former Party, the latter Party shall endeavor to provide timely notice of significant developments of such enforcement activities.

Article 15

Technical Cooperation

1. The Parties agree that it is in their common interest that their competition authorities work together in technical cooperation activities related to strengthening of competition policy and implementation of competition law.

2. The forms of technical cooperation activities referred to in paragraph 1 shall be:

- (a) exchange of personnel of the competition authorities for training purposes;
- (b) participation of personnel of the competition authorities as lecturers or consultants at training courses on strengthening of competition policy and implementation of competition law organized or sponsored by either or both competition authorities; and
- (c) other forms to be agreed upon by the competition authorities.

Article 16
Transparency

The competition authority of each Party shall:

- (a) promptly inform the competition authority of the other Party of any modification of the competition law and any adoption of new laws and regulations by its country that control anticompetitive activities;
- (b) provide, as appropriate, the competition authority of the other Party with copies of its publicly-released guidelines or policy statements issued in relation to the competition law of its country; and
- (c) provide, as appropriate, the competition authority of the other Party with copies of its annual reports and/or any other publication that are made generally available to the public.

Article 17
Consultations

The competition authorities shall consult with each other, upon request of either competition authority, on any matter which may arise in connection with this Chapter.

Article 18
Confidentiality of Information

1. (a) Information, other than publicly available information, provided by a Party to the other Party pursuant to this Chapter shall only be used by that other Party for the purpose of effective enforcement of the competition law of its country and shall not be communicated to a third party, unless the Party providing the information has approved otherwise.
 - (b) Information, other than publicly available information, provided by the competition authority of a Party to the competition authority of the other Party pursuant to this Chapter shall only be used by the competition authority receiving the information for the purpose of effective enforcement of the competition law of its country and shall not be communicated to a third party or other authorities, unless the competition authority providing the information has approved otherwise.
2. Notwithstanding subparagraph 1(b), the competition authority of a Party which receives information, other than publicly available information, pursuant to this Chapter may, unless otherwise notified by the competition authority of the other Party, communicate such information, for the purpose of enforcement of competition law, to relevant law enforcement authorities of the former Party, which may use the information under the conditions stipulated in Article 19.
3. Each Party shall, in accordance with the laws and regulations of its country, maintain the confidentiality of any information provided to it in confidence by the other Party pursuant to this Chapter.
4. Each Party may limit the information it provides to the other Party when the other Party is unable to give the assurance requested by the former Party with respect to confidentiality or the limitations of purposes for which the information will be used.

5. Notwithstanding any other provisions of this Chapter, neither Party is required to provide information to the other Party if it is prohibited from providing the information by the laws and regulations of its country or it finds providing the information incompatible with its important interests. In particular:

- (a) the Government of Japan shall not be required to provide "trade secrets of entrepreneurs" covered by the provisions of Article 39 of the Antimonopoly Law to the Government of Peru, except for those provided in accordance with subparagraph 1(b) of Article 12 and with the consent of the entrepreneurs concerned; and
- (b) the Government of Peru shall not be required to provide "trade secrets", "industrial secrets", or "private information" covered by the provisions of Article 32 of the Repression of Anticompetitive Conducts Law to the Government of Japan, except for those provided in accordance with subparagraph 1(b) of Article 12 and with the consent of the entrepreneurs concerned.

6. This Article shall not preclude the use or disclosure of information to the extent that there is an obligation to do so under the laws and regulations of the country of the Party receiving the information. Such Party shall, wherever possible, give advance notice of any such use or disclosure to the Party which provided the information.

Article 19

Use of Information for Criminal Proceedings

1. Information provided by a Party to the other Party pursuant to this Chapter, except publicly available information, shall not be used in criminal proceedings carried out by a court or a judge of the country of that other Party.

2. In the event that information provided by a Party to the other Party pursuant to this Chapter, except publicly available information, is needed for presentation in criminal proceedings carried out by a court or a judge of the country of that other Party, that other Party shall submit a request for such information to the former Party through the diplomatic channel or other channels established in accordance with the laws and regulations of the country of the former Party.

Article 20 Communications

Unless otherwise provided for in this Chapter, communications under this Chapter may be directly carried out between the competition authorities. Notifications under Article 10 and requests under paragraph 1 of Article 13, however, shall be confirmed in writing through the diplomatic channel. Such confirmation shall be made as promptly as practically possible after the communication concerned between the competition authorities.

Article 21 Miscellaneous

1. Detailed arrangements to implement this Chapter may be made between the competition authorities.
2. Nothing in this Chapter shall prevent the Parties from seeking or providing assistance to each other pursuant to other bilateral or multilateral agreements or arrangements.
3. Nothing in this Chapter shall be construed to prejudice the policy or legal position of either Party regarding any issues related to jurisdiction.
4. Nothing in this Chapter shall be construed to affect the rights and obligations of either Party under other international agreements or arrangements or under the laws of its country.

Chapter 3
Cooperation

Article 22
Trade and Investment Promotion

Pursuant to Article 201 of the Basic Agreement, cooperation under this Article may include:

- (a) exchanging views and information on trade and investment;
- (b) encouraging exchanges of experts, trainees and researchers to promote and improve knowledge on trade and investment in the countries;
- (c) exchanging information on investment environment and laws and regulations related to business, to promote further trade and investment and relevant business operations between the countries;
- (d) encouraging the participation and joint organization of trade missions, trade fairs, seminars and exhibitions, with the knowledge and support of the relevant agencies; and
- (e) other forms as may be agreed by the Parties.

Article 23
Industry

Pursuant to Article 201 of the Basic Agreement:

- (a) the areas of cooperation under this Article may include:
 - (i) human resource development related to the productive sector, especially for small and medium enterprises (hereinafter referred to in this Article as "SMEs");
 - (ii) encouraging cooperation and technical assistance referred to in Article 98 of the Basic Agreement;

- (iii) strengthening management, competitiveness and technological capabilities of SMEs;
 - (iv) promoting environmental protection through environmentally sound technologies; and
 - (v) other areas as may be agreed by the Parties; and
- (b) the forms of cooperation under this Article may include:
- (i) exchanging information on policies for the productive sector, especially for SMEs, and on best practices on development and promotion of the productive sector, especially for SMEs;
 - (ii) capacity building for the productive sector, especially for SMEs;
 - (iii) promoting seminars and workshops;
 - (iv) enhancing training opportunities;
 - (v) encouraging exchanges of experts; and
 - (vi) other forms as may be agreed by the Parties.

Note: For the purposes of this Article, the term "small and medium enterprises" or "SMEs" includes micro-enterprises.

Article 24 Fisheries

Pursuant to Article 201 of the Basic Agreement:

- (a) the areas of cooperation under this Article may include:
 - (i) development of fisheries and aquaculture for direct human consumption to support food security programs;

- (ii) efficient and sustainable utilization of fishery resources under the approach of responsible fishing; and
 - (iii) other areas as may be agreed by the Parties; and
- (b) the forms of cooperation under this Article may include:
- (i) strengthening the productive infrastructure and public institutions related to the development of fisheries and aquaculture;
 - (ii) encouraging joint research and exchange of information to promote the development of new products for direct human consumption and the harvest and processing of fish species;
 - (iii) encouraging contacts between economic entities, such as business associations and companies, to encourage new investments and business;
 - (iv) developing joint activities and exchange of information to combat illegal, unreported and unregulated fishing; and
 - (v) other forms as may be agreed by the Parties.

Article 25
Science and Technology and Environment

Pursuant to Article 201 of the Basic Agreement:

- (a) the areas of cooperation under this Article may include:
- (i) advanced science and technology;
 - (ii) development of human resources with advanced knowledge and skills;

- (iii) promotion of clean energy research and utilization, and energy efficiency and conservation;
 - (iv) natural resources management and environmental conservation and protection;
 - (v) natural disaster risk reduction; and
 - (vi) other areas as may be agreed by the Parties; and
- (b) the forms of cooperation under this Article may include:
- (i) encouraging joint research and development in areas of mutual interest;
 - (ii) encouraging exchange of scientists, technical personnel or other experts;
 - (iii) promoting the holding of joint seminars, dialogues, workshops and trainings with a view to enhancing awareness and knowledge of scientists of both countries;
 - (iv) exchanging information on policies, laws and regulations concerning science and technology;
 - (v) encouraging cooperation among institutes of advanced science and technology; and
 - (vi) other forms as may be agreed by the Parties.

Article 26
Information and Communications Technology

Pursuant to Article 201 of the Basic Agreement:

- (a) the areas of cooperation under this Article may include:
 - (i) Next Generation IP-based Network, broadband networks and ubiquitous networks;

- (ii) circulation of digital contents over broadband networks;
 - (iii) research and development;
 - (iv) promotion of capacity building for ICT development;
 - (v) e-government;
 - (vi) promotion and development of electronic commerce;
 - (vii) promotion of ICT projects for the development of socially vulnerable people; and
 - (viii) other areas as may be agreed by the Parties; and
- (b) the forms of cooperation under this Article may include:
- (i) conducting dialogues and exchanging information on policy and regulatory issues including best practices on ICT;
 - (ii) encouraging exchange of scientists, technical personnel or other experts;
 - (iii) promoting capacity building programs, including seminars, workshops, and pilot programs, with a view to enhancing awareness and knowledge of experts of both countries; and
 - (iv) other forms as may be agreed by the Parties.

Article 27
Tourism

Pursuant to Article 201 of the Basic Agreement:

- (a) the areas of cooperation under this Article may include:

- (i) promotion of tourism;
 - (ii) sustainable development of tourism;
 - (iii) human resource development related to tourism; and
 - (iv) other areas as may be agreed by the Parties; and
- (b) the forms of cooperation under in this Article may include:
- (i) exchanging information and sharing experiences;
 - (ii) encouraging exchanges of experts;
 - (iii) providing appropriate assistance for tourism promotion and development programs;
 - (iv) promoting training of persons engaged in the tourism industry;
 - (v) encouraging and facilitating cooperation between private entities of the countries; and
 - (vi) other forms as may be agreed by the Parties.

Article 28
Agriculture

Pursuant to Article 201 of the Basic Agreement:

- (a) the areas of cooperation under this Article may include:
- (i) human resource development related to agricultural production activities;
 - (ii) sustainable development of small-scale agriculture and rural areas;
 - (iii) development and promotion of technologies related to agriculture;

- (iv) improvement of productivity and quality in the field of agriculture; and
 - (v) other areas as may be agreed by the Parties; and
- (b) the forms of cooperation under this Article may include:
- (i) exchanging views and information on policies, laws and regulations for agricultural and rural development;
 - (ii) encouraging exchange of experts and technical personnel to promote and improve knowledge on the development of agriculture and agribusiness;
 - (iii) promoting the holding of joint seminars, dialogues and workshops; and
 - (iv) other forms as may be agreed by the Parties.

Article 29
Transport

Pursuant to Article 201 of the Basic Agreement:

Specific areas and forms of cooperation under this Article shall be determined upon mutual agreement of the Parties.

Chapter 4
Final Provisions

Article 30
Implementation

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

Article 31
Table of Contents and Headings

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

Article 32
Amendment

Without prejudice to the legal procedures of each country with respect to the conclusion and the amendment of international agreements, this Agreement may be amended by agreement between the Parties.

Article 33
Entry into Force

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

Article 34
Dispute Settlement

Chapter 15 of the Basic Agreement shall apply *mutatis mutandis* with respect to the settlement of disputes between the Parties arising out of the interpretation and/or application of Chapter 1 and this Chapter.

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

DONE at Tokyo on this thirty-first day of May in the year 2011 in two originals in the Japanese, Spanish and English languages, being equally authentic. In the event of any divergence among the texts, the English text shall prevail.

For the Government of
Japan:

松本剛明

For the Government of
the Republic of Peru:

Ferreyros