

PREAMBLE

THE EUROPEAN UNION and JAPAN (hereinafter referred to as 'the Parties'),

CONSCIOUS of their longstanding and strong partnership based on common principles and values, and of their important economic, trade and investment relationship;

RECOGNISING the importance of strengthening their economic, trade and investment relations, in accordance with the objective of sustainable development in the economic, social and environmental dimensions, and of promoting trade and investment between them, mindful of the needs of the business communities of each Party, in particular small and medium-sized enterprises, and of high levels of environmental and labour protection through relevant internationally recognised standards and international agreements to which both Parties are party;

RECOGNISING that this Agreement contributes to enhancing consumer welfare through policies ensuring a high level of consumer protection and economic well-being;

REALISING that a dynamic and rapidly changing global environment brought about by globalisation and closer integration among economies in the world presents many new economic challenges and opportunities to the Parties;

RECOGNISING that their economies are endowed with conditions to complement each other and that this complementarity should contribute to further promoting the development of trade and investment between the Parties by making use of their respective economic strengths through bilateral trade and investment activities;

BELIEVING that creating a clearly established and secured trade and investment framework through mutually advantageous rules to govern trade and investment between the Parties would enhance the competitiveness of their economies, make their markets more efficient and vibrant and ensure predictable commercial environment for further expansion of trade and investment between them;

REAFFIRMING their commitment to the Charter of the United Nations and having regard to the principles articulated in the Universal Declaration of Human Rights;

RECOGNISING the importance of transparency in international trade and investment to the benefit of all stakeholders;

SEEKING to establish clear and mutually advantageous rules governing trade and investment between the Parties and to reduce or eliminate barriers thereto;

RESOLVED to contribute to the harmonious development and expansion of international trade and investment by removing obstacles thereto through this Agreement and to avoid creating new barriers to trade or investment between the Parties that could reduce the benefits of this Agreement;

BUILDING on their respective rights and obligations under the WTO Agreement and other multilateral, regional and bilateral agreements to which both Parties are party; and

DETERMINED to establish a legal framework for strengthening their economic partnership,

HAVE AGREED AS FOLLOWS:

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1.1

Objectives

The objectives of this Agreement are to liberalise and facilitate trade and investment, as well as to promote a closer economic relationship between the Parties.

ARTICLE 1.2

General definitions

For the purposes of this Agreement, unless otherwise specified:

- (a) 'Agreement on Agriculture' means the Agreement on Agriculture in Annex 1A to the WTO Agreement;
- (b) 'Agreement on Anti-Dumping' means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement;
- (c) 'Agreement on Import Licensing Procedures' means the Agreement on Import Licensing Procedures in Annex 1A to the WTO Agreement;
- (d) 'Agreement on Safeguards' means the Agreement on Safeguards in Annex 1A to the WTO Agreement;
- (e) 'CPC' means the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991);
- (f) 'customs authority' means:
 - (i) for the European Union, the services of the European Commission responsible for customs matters and the customs administrations and any other authorities empowered in the Member States of the European Union to apply and enforce customs legislation; and
 - (ii) for Japan, the Ministry of Finance;
- (g) 'customs legislation' means any laws and regulations of the European Union or Japan, governing the import, export and transit of goods and placing of goods under any other customs procedures, including measures of prohibitions, restrictions and controls falling under the competence of the customs authorities;
- (h) 'customs territory' means:
 - (i) for the European Union, the customs territory as referred to in Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾; and
 - (ii) for Japan, the territory with respect to which the customs legislation of Japan is in force;
- (i) 'days' means calendar days;
- (j) 'DSU' means the Understanding on Rules and Procedures Governing the Settlement of Disputes in Annex 2 to the WTO Agreement;
- (k) 'GATS' means the General Agreement on Trade in Services in Annex 1B to the WTO Agreement;
- (l) 'GATT 1994' means the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement; for the purposes of this Agreement, references to articles in the GATT 1994 include the interpretative notes;
- (m) 'GPA' means the Agreement on Government Procurement in Annex 4 to the WTO Agreement ⁽²⁾;
- (n) 'Harmonized System' or 'HS' means the Harmonized Commodity Description and Coding System, including its General Rules for the Interpretation, Section Notes, Chapter Notes and Subheading Notes;
- (o) 'IMF' means the International Monetary Fund;
- (p) 'measure' means any measure, whether in form of a law, regulation, rule, procedure, decision, practice, administrative action, or any other form;

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ For greater certainty, the 'GPA' shall be understood to be the GPA as amended by the Protocol Amending the Agreement on Government Procurement, done at Geneva on 30 March 2012.

- (q) 'natural person of a Party' means, for the European Union, a national of a Member State of the European Union, and for Japan, a national of Japan, in accordance with their respective applicable laws and regulations; ⁽¹⁾
- (r) 'person' means a natural person or a legal person;
- (s) 'SCM Agreement' means the Agreement on Subsidies and Countervailing Measures in Annex 1A to the WTO Agreement;
- (t) 'SPS Agreement' means the Agreement on the Application of Sanitary and Phytosanitary Measures in Annex 1A to the WTO Agreement;
- (u) 'TBT Agreement' means the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement;
- (v) 'territory' means the area to which this Agreement applies in accordance with Article 1.3;
- (w) 'TFEU' means the Treaty on the Functioning of the European Union;
- (x) 'TRIPS Agreement' means the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement;
- (y) 'WIPO' means the World Intellectual Property Organization;
- (z) 'WTO' means the World Trade Organization; and
- (aa) 'WTO Agreement' means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh on 15 April 1994.

ARTICLE 1.3

Territorial application

1. This Agreement applies:
 - (a) for the European Union, to the territories in which the Treaty on European Union and the TFEU apply under the conditions laid down in those treaties; and
 - (b) for Japan, to its territory.
2. Unless otherwise specified, this Agreement also applies to all the areas beyond each Party's territorial sea, including the sea-bed and subsoil thereof, over which that Party exercises sovereign rights or jurisdiction in accordance with international law including the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 and its laws and regulations which are consistent with international law. ⁽²⁾
3. As regards the provisions of this Agreement concerning the application of preferential tariff treatment to goods as well as Articles 2.9 and 2.10, this Agreement also applies to those areas of the customs territory of the European Union not covered by subparagraph 1(a) and to those areas provided for in Annexes 3-E and 3-F.
4. Each Party shall notify the other Party in the event that the respective scope of the territorial application of this Agreement as referred to in paragraphs 1 to 3 changes and promptly provide, on request of the other Party, supplementary information or clarification thereon.

ARTICLE 1.4

Taxation

1. For the purposes of this Article:
 - (a) 'residence' means residence for tax purposes;

⁽¹⁾ For the purposes of Chapter 8, the definition of 'natural person of a Party' also includes a natural person permanently residing in the Republic of Latvia who is not a citizen of the Republic of Latvia or any other state but who is entitled, under the laws and regulations of the Republic of Latvia, to receive a non-citizen passport.

⁽²⁾ For greater certainty, for the European Union, the areas beyond each Party's territorial sea shall be understood as the respective areas of the Member States of the European Union.

- (b) 'tax agreement' means an agreement for the avoidance of double taxation or any other international agreement or arrangement relating wholly or mainly to taxation to which the European Union or its Member States or Japan is party; and
- (c) 'taxation measure' means a measure in application of the tax legislation of the European Union, of its Member States or of Japan.

2. This Agreement applies to taxation measures only in so far as such application is necessary to give effect to the provisions of this Agreement.

3. Nothing in this Agreement shall affect the rights and obligations of the European Union, of its Member States or of Japan under any tax agreement. In the event of any inconsistency between this Agreement and any such tax agreement, the tax agreement shall prevail to the extent of the inconsistency. With regard to a tax agreement between the European Union or its Member States and Japan, the relevant competent authorities under this Agreement and that tax agreement shall jointly determine whether an inconsistency exists between this Agreement and the tax agreement.

4. Any most-favoured-nation obligation in this Agreement shall not be applicable with respect to an advantage accorded by the European Union, by its Member States or by Japan pursuant to a tax agreement.

5. The Joint Committee established pursuant to Article 22.1 may decide on a different scope of the application of dispute settlement under Chapter 21 with respect to taxation measures.

6. Subject to the requirement that taxation measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on trade and investment, nothing in this Agreement shall be construed to prevent the adoption, maintenance or enforcement by the European Union, by its Member States or by Japan of any taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes such as measures:

- (a) distinguishing between taxpayers who are not in the same situation, in particular with regard to their place of residence or the place where their capital is invested; or
- (b) preventing the avoidance or evasion of taxes pursuant to the provisions of any tax agreement or domestic tax legislation.

ARTICLE 1.5

Security exceptions

1. Nothing in this Agreement shall be construed:

- (a) as requiring a Party to provide any information the disclosure of which it considers contrary to its essential security interests;
- (b) as preventing a Party from taking any action which it considers necessary for the protection of its essential security interests:
 - (i) relating to fissionable and fusionable materials or the materials from which they are derived;
 - (ii) relating to the production of or trade in arms, ammunition and implements of war as well as to the production of or trade in other goods and materials as carried out directly or indirectly for the purpose of supplying a military establishment;
 - (iii) relating to the supply of services as carried out directly or indirectly for the purpose of provisioning a military establishment; or
 - (iv) taken in time of war or other emergency in international relations; or
- (c) as preventing a Party from taking any action in pursuance of its obligations under the Charter of the United Nations for the purpose of maintaining international peace and security.

2. Notwithstanding paragraph 1,

- (a) for the purposes of Chapter 10, Article III of the GPA applies; and
- (b) for the purposes of Chapter 14, Article 14.54 applies.

ARTICLE 1.6

Confidential information

1. Unless otherwise provided for in this Agreement, nothing in this Agreement shall require a Party to provide confidential information the disclosure of which would impede the enforcement of its laws and regulations, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.
2. When, under this Agreement, a Party provides the other Party with information which is considered as confidential under its laws and regulations, the other Party shall maintain the confidentiality of the information provided, unless the Party providing the information agrees otherwise.

ARTICLE 1.7

Fulfilment of obligations and delegated authority

1. Each Party shall ensure that all necessary measures are taken in order to give effect to the provisions of this Agreement.
2. Unless otherwise specified in this Agreement, each Party shall ensure that any person or entity to which the Party has delegated regulatory or administrative authority to fulfil the Party's obligations under this Agreement acts in accordance with those obligations in the exercise of such delegated authority.
3. For greater certainty, neither Party shall be released from its obligations under this Agreement in the event of non-compliance with the provisions of this Agreement by any of its governmental levels or non-governmental bodies in the exercise of powers delegated by the Party to them.

ARTICLE 1.8

Laws and regulations and their amendments

Where reference is made in this Agreement to laws and regulations of a Party, those laws and regulations shall be understood to include amendments thereto, unless otherwise specified.

ARTICLE 1.9

Relation to other agreements

1. The existing agreements between the European Union or its Member States and Japan are not superseded or terminated by this Agreement.
2. Nothing in this Agreement shall require either Party to act in a manner inconsistent with its obligations under the WTO Agreement.
3. In the event of any inconsistency between this Agreement and any agreement other than the WTO Agreement to which both Parties are party, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution.
4. Where international agreements ⁽¹⁾ are referred to in or incorporated into this Agreement, in whole or in part, they shall be understood to include amendments thereto or their successor agreements entering into force for both Parties on or after the date of signature of this Agreement. If any matter arises regarding the implementation or application of the provisions of this Agreement as a result of such amendments or successor agreements, the Parties may, on request of either Party, consult with each other with a view to finding a mutually satisfactory solution to this matter as necessary.

⁽¹⁾ The international agreements referred to in or incorporated into this Agreement shall be understood to include their most recent amendments having entered into force for both Parties before the date of signature of this Agreement.