

Chapter 1 General Provisions

Article 1 Objectives

The objectives of this Agreement are to:

- (a) liberalise and facilitate trade in goods and services between the Parties;
- (b) increase investment opportunities and strengthen protection for investments and investment activities in the Parties;
- (c) establish a framework for further bilateral cooperation and improvement of business environment; and
- (d) create effective procedures for the implementation and application of this Agreement and for the resolution of disputes.

Article 2 General Definitions

For the purposes of this Agreement:

- (a) "Area" means:
 - (i) with respect to Brunei Darussalam, the territory of Brunei Darussalam including its territorial sea, extending to the airspace above such territory, over which it exercises sovereignty, and the maritime area beyond its territorial sea, including sea-bed and subsoil, which has been or may hereafter be designated under the laws of Brunei Darussalam, over which it exercises its sovereign rights and jurisdiction in accordance with international law; and
 - (ii) with respect to Japan, the territory of Japan, and all the area beyond its territorial sea, including the sea-bed and subsoil thereof, over which Japan exercises sovereign rights or jurisdiction in accordance with international law and the laws and regulations of Japan;

Note: Nothing in this subparagraph shall affect the rights and obligations of the Parties under international law, including those under the United Nations Convention on the Law of the Sea, done at Montego Bay, December 10, 1982.

- (b) "customs authority" means the authority that, according to the legislation of each Party or non-Parties, is responsible for the administration and enforcement of customs laws and regulations. In the case of Japan, the Ministry of Finance, and in the case of Brunei Darussalam, the Royal Customs and Excise Department;
- (c) "GATS" means the General Agreement on Trade in Services in Annex 1B to the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, April 15, 1994, as may be amended;
- (d) "GATT 1994" means the General Agreement on Tariffs and Trade 1994 in Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, April 15, 1994, as may be amended. For the purposes of this Agreement, references to articles in the GATT 1994 include the interpretative notes;
- (e) "Harmonized System" or "HS" means the Harmonized Commodity Description and Coding System set out in the Annex to the International Convention on the Harmonized Commodity Description and Coding System, as may be amended, and adopted and implemented by the Parties in their respective laws;
- (f) "Parties" means Japan and Brunei Darussalam and "Party" means either Japan or Brunei Darussalam; and
- (g) "WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, April 15, 1994, as may be amended.

Article 3 Transparency

1. Each Party shall make publicly available its laws, regulations and judicial decisions of general application as well as international agreements to which the Party is a party, that pertain to, or affect any matter covered by this Agreement.

2. Each Party shall make easily available to the public, the names and addresses of the competent authorities responsible for laws and regulations referred to in paragraph 1.

3. Each Party shall, upon the request by the other Party, within a reasonable period of time, respond to specific questions from, and provide information to, the other Party in the English language with respect to matters referred to in paragraph 1.

Article 4 Administrative Procedures

1. Where administrative decisions which pertain to or affect the implementation and operation of this Agreement are taken by the competent authorities of the Government of a Party, the competent authorities shall, in accordance with the applicable laws and regulations of the Party:

- (a) inform the applicant of the decision within a reasonable period of time after the submission of the application considered complete under the laws and regulations of the Party, taking into account the established standard period of time referred to in paragraph 3; and
- (b) provide, within a reasonable period of time, information concerning the status of the application, at the request of the applicant.

2. The competent authorities of the Government of a Party shall, in accordance with the applicable laws and regulations of the Party, establish standards for taking administrative decisions in response to submitted applications. The competent authorities shall:

- (a) make such standards as specific as possible; and
- (b) make such standards publicly available except when it would extraordinarily raise administrative difficulties for the Government of the Party.

3. The competent authorities of the Government of a Party shall, in accordance with the applicable laws and regulations of the Party, endeavour to:

- (a) establish standard periods of time between the receipt of applications by the competent authorities and the administrative decisions taken in response to submitted applications; and

- (b) make publicly available such periods of time, if established.

4. The competent authorities of the Government of a Party shall, in accordance with the applicable laws and regulations of the Party, prior to any final decision which adversely affects the interests of a person, provide that person with:

- (a) a reasonable notice, including a description of the nature of the measure, specific provisions upon which such measure will be based, and the facts which may be a cause of taking such measure; and
- (b) a reasonable opportunity to present facts and arguments in support of position of such person,

provided that time, nature of the measure and public interest permit.

Article 5 Review and Appeal

1. Each Party shall maintain judicial or administrative tribunals or procedures for the purpose of prompt review and, where justified, appropriate remedies for actions taken by its Government regarding matters covered by this Agreement. Such tribunals or procedures shall be impartial.

2. Each Party shall ensure that the parties in any such tribunals or procedures are provided with the right to:

- (a) a reasonable opportunity to support or defend their respective positions; and
- (b) a decision based on the evidence and submissions of record.

3. Each Party shall ensure, subject to appeal or further review as provided for in its applicable laws and regulations, that such decision is implemented by the relevant authorities with respect to the action at issue which is taken by its Government.

Article 6 Confidential Information

1. Each Party shall, in accordance with its laws and regulations, maintain the confidentiality of information provided in confidence by the other Party pursuant to this Agreement. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific permission of the Party providing the information.

2. Nothing in this Agreement shall be construed to require a Party to provide confidential information, the disclosure of which would:

- (a) be contrary to the public interest;
- (b) impede enforcement of its laws and regulations;
or
- (c) prejudice legitimate commercial interests of particular enterprises, public or private.

3. In the event of the termination of this Agreement, the Parties agree that the provision of this Article shall continue to apply.

Article 7 Taxation

1. Unless otherwise provided for in this Agreement, the provisions of this Agreement shall not apply to any taxation measures.

2. Articles 3 and 6 shall apply to taxation measures, to the extent that the provisions of this Agreement are applicable to such taxation measures.

Article 8 General and Security Exceptions

1. For the purposes of Chapters 2,3,4,5 other than Article 64, and 7, Article XX of the GATT 1994 is incorporated into and forms part of this Agreement, *mutatis mutandis*.

2. For the purposes of Chapter 5 other than Article 64, and Chapter 6, Article XIV of the GATS is incorporated into and forms part of this Agreement, *mutatis mutandis*.

3. Nothing in this Agreement other than Article 64, shall be construed:

- (a) to require a Party to furnish any information, the disclosure of which it considers contrary to its essential security interests;
- (b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:
 - (i) relating to the production or supply of, or traffic in, arms, ammunition and implements of war and to such production or supply of, or traffic in, other goods and materials, or such supply of services, as is carried on directly or indirectly for the purpose of supplying or provisioning a military establishment;
 - (ii) taken in time of war, or armed conflict, or other domestic or international emergency; or
 - (iii) relating to fissionable and fusionable materials or the materials from which they are derived; or
- (c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

4. In cases where a Party takes any measure or action pursuant to this Article, the Party shall make reasonable effort to notify the other Party of the description of such measure or action either before the measure or action is taken or as soon as possible thereafter.

Article 9 Relation to Other Agreements

1. The Parties reaffirm their rights and obligations under the WTO Agreement or any other agreements to which both Parties are parties.

2. In the event of any inconsistency between this Agreement and the WTO Agreement or any other agreements to which both Parties are parties, the Parties shall immediately consult with each other with a view to finding a mutually satisfactory solution, taking into consideration general principles of international law.

Article 10 Implementing Agreement

The Governments of the Parties shall conclude a separate agreement setting forth the details and procedures for the implementation of this Agreement (hereinafter referred to in this Agreement as "the Implementing Agreement").

Article 11 Joint Committee

1. A Joint Committee shall be established under this Agreement.
2. The functions of the Joint Committee shall be:
 - (a) reviewing and monitoring the implementation and operation of this Agreement;
 - (b) considering and recommending to the Parties any amendments to this Agreement;
 - (c) supervising and coordinating the work of all Sub-Committees established under this Agreement;
 - (d) adopting:
 - (i) Operational Procedures referred to in Chapter 3; and
 - (ii) any necessary decisions; and
 - (e) carrying out other functions as the Parties may agree.
3. The Joint Committee:
 - (a) shall be composed of representatives of the Parties; and
 - (b) may establish and delegate its responsibilities to Sub-Committees.
4. The Joint Committee shall meet at such venues and times as may be agreed by the Parties.

Article 12 Communications

Each Party shall designate an enquiry point to facilitate communications between the Parties on any matter relating to this Agreement.