

AGREEMENT BETWEEN THE GOVERNMENT OF JAPAN
AND THE GOVERNMENT OF THE REPUBLIC OF THE UNION OF MYANMAR
FOR THE LIBERALISATION, PROMOTION
AND PROTECTION OF INVESTMENT

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Japan and the Republic of the Union of Myanmar
(hereinafter referred to as "the Contracting Parties"),

Desiring to further promote investment in order to
strengthen the economic relationship between the
Contracting Parties;

Intending to further create stable, equitable,
favourable and transparent conditions for greater
investment by investors of one Contracting Party in the
Area of the other Contracting Party;

Recognising the growing importance of the progressive
liberalisation of investment for stimulating initiative of
investors and for promoting prosperity in both Contracting
Parties;

Recognising that these objectives can be achieved
without relaxing health, safety and environmental measures
of general application; and

Recognising the importance of the cooperative
relationship between labour and management in promoting
investment between both Contracting Parties;

Have agreed as follows:

Article 1
Definitions

For the purposes of this Agreement:

- (a) the term "investment" means every kind of asset
owned or controlled, directly or indirectly, by
an investor, including:
 - (i) an enterprise and a branch of an enterprise;
 - (ii) shares, stocks or other forms of equity
participation in an enterprise, including
rights derived therefrom;

- (iii) bonds, debentures, loans and other forms of debt, including rights derived therefrom;
- (iv) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;
- (v) claims to money and to any performance under contract having a financial value;
- (vi) intellectual property rights, including copyrights and related rights, patent rights and rights relating to utility models, trademarks, industrial designs, layout-designs of integrated circuits, new varieties of plants, trade names, indications of source or geographical indications and undisclosed information;
- (vii) rights conferred pursuant to laws and regulations or contracts such as concessions, licences, authorisations, and permits, including those for the exploration and exploitation of natural resources; and
- (viii) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges;

Investments include the amounts yielded by investments, in particular, profit, interest, capital gains, dividends, royalties and fees. A change in the form in which assets are invested does not affect their character as investment.

(b) the term "investor of a Contracting Party" means:

- (i) a natural person having the nationality of that Contracting Party in accordance with its applicable laws and regulations; or
- (ii) an enterprise of that Contracting Party, that seeks to make, is making or has made investments in the Area of the other Contracting Party;

Note: It is understood that an investor of a Contracting Party seeks to make investments in the Area of the other Contracting Party only when the investor has taken concrete steps necessary to make investments, such as when the investor has made an application for a permit or licence which authorises the establishment of investments.

- (c) the term "enterprise of a Contracting Party" means any legal person or any other entity duly constituted or organised under the applicable laws and regulations of that Contracting Party, whether or not for profit, and whether private or government owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, organisation or company;
- (d) the term "investment activities" means establishment, acquisition, expansion, operation, management, maintenance, use, enjoyment and sale or other disposal of investments;
- (e) the term "Area" means with respect to a Contracting Party: (i) the territory of that Contracting Party; and (ii) the exclusive economic zone and the continental shelf with respect to which that Contracting Party exercises sovereign rights or jurisdiction in accordance with international law;
- (f) the term "existing" means being in effect on the date of entry into force of this Agreement;
- (g) the term "freely usable currency" means freely usable currency as defined under the Articles of Agreement of the International Monetary Fund; and
- (h) the term "the WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, April 15, 1994.

Article 2 National Treatment

1. Each Contracting Party shall in its Area accord to investors of the other Contracting Party and to their investments treatment no less favourable than the treatment it accords in like circumstances to its own investors and to their investments with respect to investment activities.

2. Paragraph 1 shall not be construed to prevent a Contracting Party from adopting or maintaining a measure that prescribes special formalities in connection with investment activities of investors of the other Contracting Party in its Area, provided that such special formalities do not impair the substance of the rights of such investors under this Agreement.

Article 3 Most-Favoured-Nation Treatment

Each Contracting Party shall in its Area accord to investors of the other Contracting Party and to their investments treatment no less favourable than the treatment it accords in like circumstances to investors of a non-Contracting Party and to their investments with respect to investment activities.

Article 4 Treatment of Investment

1. Each Contracting Party shall in its Area accord to investments of investors of the other Contracting Party treatment in accordance with international law, including fair and equitable treatment and full protection and security.

2. Each Contracting Party shall observe any obligation it may have entered into with regard to investments and investment activities of investors of the other Contracting Party.

Article 5 Access to the Courts of Justice

Each Contracting Party shall in its Area accord to investors of the other Contracting Party treatment no less favourable than the treatment which it accords in like circumstances to its own investors or investors of a non-Contracting Party with respect to access to the courts of justice and administrative tribunals and agencies in all degrees of jurisdiction, both in pursuit and in defence of such investors' rights.

Article 6 Prohibition of Performance Requirements

1. Neither Contracting Party may impose or enforce any of the following requirements, or enforce any commitment or undertaking, in connection with investment activities of an investor of a Contracting Party or of a non-Contracting Party in its Area:

- (a) to export a given level or percentage of goods or services;
- (b) to achieve a given level or percentage of domestic content;
- (c) to purchase, use or accord a preference to goods produced or services provided in its Area, or to purchase goods or services from natural or legal persons or any other entity in its Area;
- (d) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with investments of that investor;
- (e) to restrict sales of goods or services in its Area that investments of the investor produce or provide by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;
- (f) to restrict the exportation or sale for export;
- (g) to appoint, as executives, managers or members of boards of directors, individuals of any particular nationality;
- (h) to transfer technology, a production process or other proprietary knowledge to a natural or legal person or any other entity in its Area, except when:
 - (i) the requirement is imposed or the commitment or undertaking is enforced by a court, administrative tribunal or competition authority to remedy an alleged violation of competition laws; or
 - (ii) the requirement concerns the transfer of intellectual property rights which is undertaken in a manner not inconsistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement (hereinafter referred to as "the TRIPS Agreement");

Note: The requirement prohibited under this subparagraph, irrespective of its objectives or effects, shall be deemed to include any requirement by a Contracting Party, either explicit or implicit, that an investor offer or accept:

- (i) a rate or amount of royalty below a certain level; or
- (ii) a given range of period as the term of a licence contract,

in regard to any licence contract freely entered into between the investor and a natural or legal person or any other entity in its Area. For greater certainty, a "licence contract" referred to in this note means any licence contract concerning the transfer of technology, a production process, or other proprietary knowledge, including where such transfer is not subject to a requirement prohibited under this subparagraph.

- (i) to locate the headquarters of that investor for a specific region or the world market in its Area;
- (j) to achieve a given level or value of research and development in its Area; or
- (k) to supply one or more of the goods that the investor produces or the services that the investor provides to a specific region or the world market, exclusively from the Area of the former Contracting Party.

2. Neither Contracting Party may condition the receipt or continued receipt of an advantage, in connection with investment activities of an investor of a Contracting Party or of a non-Contracting Party in its Area, on compliance with any of the following requirements:

- (a) to achieve a given level or percentage of domestic content;
- (b) to purchase, use or accord a preference to goods produced provided in its Area, or to purchase goods from natural or legal persons or any other entity in its Area;
- (c) to relate in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with investments of that investor;

- (d) to restrict sales of goods or services in its Area that investments of the investor produce or provide by relating such sales in any way to the volume or value of its exports or foreign exchange earnings; or
 - (e) to restrict the exportation or sale for export.
3. (a) Nothing in paragraph 2 shall be construed to prevent a Contracting Party from conditioning the receipt or continued receipt of an advantage, in connection with investment activities of an investor of a Contracting Party or of a non-Contracting Party in its Area, on compliance with a requirement to locate production, supply a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its Area.
- (b) Subparagraphs 2(a) and 2(b) shall not apply to requirements imposed by an importing Contracting Party relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas.
- (c) Nothing in this Agreement shall be construed to derogate from the obligations of a Contracting Party under the Agreement on Trade-Related Investment Measures in Annex 1A to the WTO Agreement.
4. Paragraphs 1 and 2 shall not apply to any requirement other than the requirements set out in those paragraphs.

Article 7
Non-Conforming Measures

1. Articles 2, 3 and 6 shall not apply to:
- (a) any existing non-conforming measure that is maintained by the following, as set out in the Schedule of each Contracting Party in Annex I:
 - (i) the central government of a Contracting Party; or
 - (ii) a prefecture of Japan or a state, a region or a Union Territory of the Republic of the Union of Myanmar;

Note: In the case of the Republic of the Union of Myanmar, a state, a region or a Union Territory includes a Self-Administered Division and a Self-Administered Zone.

- (b) any existing non-conforming measure that is maintained by a local government other than a prefecture and a state, a region and a Union Territory referred to in subparagraph (a) (ii);
- (c) the continuation or prompt renewal of any non-conforming measure referred to in subparagraphs (a) and (b); or
- (d) an amendment or modification to any non-conforming measure referred to in subparagraphs (a) and (b), provided that the amendment or modification does not decrease the conformity of the measure as it existed immediately before the amendment or modification, with Articles 2, 3 and 6.

2. Articles 2, 3 and 6 shall not apply to any measure that a Contracting Party adopts or maintains with respect to sectors, sub-sectors or activities set out in its Schedule in Annex II.

3. Neither Contracting Party shall, under any measure adopted after the date of entry into force of this Agreement and covered by its Schedule in Annex II, require an investor of the other Contracting Party, by reason of its nationality, to sell or otherwise dispose of an investment that exists at the time the measure becomes effective.

4. In cases where a Contracting Party makes an amendment or a modification to any existing non-conforming measure set out in its Schedule in Annex I or where a Contracting Party adopts any new or more restrictive measure with respect to sectors, sub-sectors or activities set out in its Schedule in Annex II after the date of entry into force of this Agreement, the Contracting Party shall, prior to the implementation of the amendment or modification or the new or more restrictive measure, or in exceptional circumstances, as soon as possible thereafter:

- (a) notify the other Contracting Party of detailed information on such amendment or modification, or such measure; and

(b) hold, upon request by the other Contracting Party, consultations in good-faith with the other Contracting Party with a view to achieving mutual satisfaction.

5. Each Contracting Party shall endeavour, where appropriate, to reduce or eliminate the non-conforming measures specified in its Schedules in Annexes I and II respectively.

6. Articles 2, 3 and 6 shall not apply to any measure covered by the exceptions to, or derogations from, obligations under Articles 3 and 4 of the TRIPS Agreement, as specifically provided in Articles 3 through 5 of the TRIPS Agreement.

7. Articles 2, 3 and 6 shall not apply to any measure that a Contracting Party adopts or maintains with respect to government procurement.

Article 8 Transparency

1. Each Contracting Party shall promptly publish, or otherwise make publicly available, its laws, regulations, administrative procedures and administrative rulings and judicial decisions of general application as well as international agreements which pertain to or affect the implementation and operation of this Agreement.

Note: This paragraph shall not be construed so as to oblige either Contracting Party to make available to the public administrative rulings and judicial decisions which are protected under the laws and regulations of the Contracting Party.

2. Each Contracting Party shall make publicly available the names and addresses of the competent authorities responsible for laws, regulations, administrative procedures and administrative rulings, referred to in paragraph 1.

3. Each Contracting Party shall, upon request by the other Contracting Party, promptly respond to specific questions and provide that other Contracting Party with information on matters set out in paragraph 1, including that relating to a contract each Contracting Party enters into with regard to investment.

4. Paragraphs 1 and 3 shall not be construed so as to oblige either Contracting Party to disclose confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest, or which would prejudice privacy or legitimate commercial interests.

Article 9
Public Comment Procedures

Each Contracting Party shall, in accordance with the laws and regulations of the Contracting Party, endeavour to provide, except in cases of emergency or of purely minor nature, a reasonable opportunity for comments by the public before the adoption, amendment or repeal of regulations of general application that affect any matter covered by this Agreement.

Article 10
Administrative Procedures

1. Where the competent authorities of a Contracting Party take a decision in respect of the matters relating to investment activities of an investor of the other Contracting Party upon application by the investor, the competent authorities shall endeavour to:

- (a) commence the review of the application without delay upon its arrival at their offices;
- (b) provide, upon request, the investor with information concerning the status of the review of the application within a reasonable period of time;
- (c) inform the investor of the decision within a reasonable period of time after the submission of the application considered complete under the laws and regulations of the former Contracting Party, taking into account the standard period of time referred to in paragraph 3; and
- (d) in case where they take a decision to refuse or not to approve the application, inform concurrently the investor of the grounds for the decision.

2. The competent authorities of a Contracting Party shall, in accordance with the laws and regulations of the Contracting Party, establish criteria concerning the decision referred to in paragraph 1. The competent authorities shall endeavour to:

- (a) make such criteria as specific as possible; and
- (b) make available to the public such criteria except in cases of extraordinary administrative inconvenience.

3. The competent authorities of a Contracting Party shall, with respect to the decision referred to in paragraph 1, endeavour to:

- (a) establish standard periods of time between the arrival of applications at their offices and the rendering of the decisions in response to the applications; and
- (b) make available to the public such periods of time, if established.

Article 11 Measures against Corruption

Each Contracting Party shall ensure that measures and efforts are undertaken to prevent and combat corruption regarding matters covered by this Agreement in accordance with its applicable laws and regulations.

Article 12 Entry, Sojourn and Residence of Investors

Each Contracting Party shall, in accordance with its applicable laws and regulations, give sympathetic consideration to applications for entry, sojourn and residence of a natural person having the nationality of the other Contracting Party who wishes to enter the territory of the former Contracting Party and remain therein for the purpose of investment activities.

Article 13 Expropriation and Compensation

1. Neither Contracting Party shall expropriate or nationalise investments in its Area of investors of the other Contracting Party or take any measure equivalent to expropriation or nationalisation (hereinafter referred to as "expropriation") except:

- (a) for a public purpose;
- (b) in a non-discriminatory manner;
- (c) upon payment of prompt, adequate and effective compensation pursuant to paragraphs 2, 3, and 4; and
- (d) in accordance with due process of law and Article 4.

2. The compensation shall be equivalent to the fair market value of the expropriated investments at the time when the expropriation was publicly announced or when the expropriation occurred, whichever is earlier. The fair market value shall not reflect any change in value occurring because the expropriation had become publicly known earlier.

3. The compensation shall be paid without delay and shall include interest at a commercially reasonable rate, taking into account the length of time until the time of payment. It shall be effectively realisable and freely transferable and shall be freely convertible into the currency of the Contracting Party of the investors concerned, and into freely usable currencies at the market exchange rate prevailing on the date of expropriation.

4. Without prejudice to the provisions of Article 18, the investors affected by expropriation shall have a right of access to the courts of justice or administrative tribunals or agencies of the Contracting Party making the expropriation to seek a prompt review of the investors' case and the amount of compensation in accordance with the principles set out in this Article.

Article 14 Protection from Strife

1. Each Contracting Party shall accord to investors of the other Contracting Party that have suffered loss or damage relating to their investments in the Area of the former Contracting Party due to armed conflict or a state of emergency such as revolution, insurrection, civil disturbance or any other similar event in the Area of that former Contracting Party, treatment, as regards restitution, indemnification, compensation or any other settlement, that is no less favourable than that which it accords to its own investors or to investors of a non-Contracting Party, whichever is more favourable to the investors of the other Contracting Party.

2. Any payment as a means of settlement referred to in paragraph 1 shall be effectively realisable, freely transferable and freely convertible at the market exchange rate into the currency of the Contracting Party of the investors concerned and freely usable currencies.

Article 15
Subrogation

If a Contracting Party or its designated agency makes a payment to any investor of that Contracting Party under an indemnity, guarantee or insurance contract, pertaining to an investment of such investor in the Area of the other Contracting Party, the latter Contracting Party shall recognise the assignment to the former Contracting Party or its designated agency of any right or claim of such investor on account of which such payment is made and shall recognise the right of the former Contracting Party or its designated agency to exercise by virtue of subrogation any such right or claim to the same extent as the original right or claim of the investor. As regards payment to be made to that former Contracting Party or its designated agency by virtue of such assignment of right or claim and the transfer of such payment, the provisions of Articles 13, 14, and 16 shall apply *mutatis mutandis*.

Article 16
Transfers

1. Each Contracting Party shall ensure that all transfers relating to investments in its Area of an investor of the other Contracting Party may be freely made into and out of its Area without delay. Such transfers shall include, in particular, though not exclusively:

- (a) the initial capital and additional amounts to maintain or increase investments;
- (b) profits, interest, capital gains, dividends, royalties, fees and other current incomes accruing from investments;
- (c) payments made under a contract including loan payments in connection with investments;
- (d) proceeds of the total or partial sale or liquidation of investments;
- (e) earnings and remuneration of personnel from the other Contracting Party engaged in activities in connection with investments in the Area of the former Contracting Party;

(f) payments made in accordance with Articles 13 and 14; and

(g) payments arising out of the settlement of a dispute under Article 18.

2. Each Contracting Party shall further ensure that such transfers may be made without delay in freely usable currencies at the market exchange rate prevailing on the date of the transfer.

3. Notwithstanding paragraphs 1 and 2, a Contracting Party may delay or prevent a transfer through the equitable, non-discriminatory and good-faith application of its laws and regulations relating to:

(a) bankruptcy, insolvency or the protection of the rights of creditors;

(b) issuing, trading or dealing in securities;

(c) criminal or penal offenses; or

(d) ensuring compliance with orders or judgments in adjudicatory proceedings.

Article 17

Settlement of Dispute between the Contracting Parties

1. Each Contracting Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other Contracting Party may make with respect to any matter affecting the implementation of this Agreement.

2. Any dispute between the Contracting Parties as to the interpretation and application of this Agreement, not satisfactorily adjusted by diplomacy, shall be referred for decision to an arbitration board. Such arbitration board shall be composed of three arbitrators, with each Contracting Party appointing one arbitrator within a period of thirty days from the date of receipt by either Contracting Party from the other Contracting Party of a note requesting arbitration of the dispute, and the third arbitrator to be agreed upon as President by the two arbitrators so chosen within a further period of thirty days, provided that the third arbitrator shall not be a national of either Contracting Party.

3. If the third arbitrator is not agreed upon between the arbitrators appointed by each Contracting Party within the further period of thirty days referred to in paragraph 2, the Contracting Parties shall request the President of the International Court of Justice to appoint the third arbitrator who shall not be a national of either Contracting Party.

4. The arbitration board shall within a reasonable period of time reach its decision by a majority of votes. Such decision shall be final and binding.

5. Each Contracting Party shall bear the cost of the arbitrator of its choice and its representation in the arbitral proceedings. The cost of the President of the arbitration board in discharging his or her duties and the remaining costs of the arbitration board shall be borne equally by the Contracting Parties.

Article 18
Settlement of Investment Disputes
between a Contracting Party
and an Investor of the Other Contracting Party

1. For the purposes of this Article, "investment dispute" is a dispute between a Contracting Party and an investor of the other Contracting Party that has incurred loss or damage by reason of, or arising out of, an alleged breach of any obligation of the former Contracting Party under this Agreement with respect to the investor of that other Contracting Party or its investments in the Area of the former Contracting Party.

2. Subject to subparagraph 7(b), nothing in this Article shall be construed so as to prevent an investor who is a party to an investment dispute (hereinafter referred to in this Article as "disputing investor") from seeking administrative or judicial settlement within the Area of the Contracting Party that is a party to the investment dispute (hereinafter referred to in this Article as "disputing Party").

3. Any investment dispute shall, as far as possible, be settled amicably through consultations between the disputing investor and the disputing Party (hereinafter referred to in this Article as "the disputing parties").

4. If the investment dispute cannot be settled through such consultations within three months from the date on which the disputing investor requested in writing the disputing Party for consultations, the disputing investor may, subject to subparagraph 7(a), submit the investment dispute to one of the following international arbitrations:

- (a) arbitration in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington, March 18, 1965 (hereinafter referred to in this Article as "the ICSID Convention"), so long as the ICSID Convention is in force between the Contracting Parties;
- (b) arbitration under the Additional Facility Rules of the International Centre for Settlement of Investment Disputes, provided that either Contracting Party, but not both, is a Party to the ICSID Convention;
- (c) arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law; and
- (d) if agreed with the disputing Party, any arbitration in accordance with other arbitration rules.

5. Each Contracting Party hereby consents to the submission of an investment dispute by a disputing investor to arbitration set forth in paragraph 4 chosen by the disputing investor.

6. Notwithstanding paragraph 5, no investment disputes may be submitted to arbitration set forth in paragraph 4, if more than three years have elapsed since the date on which the disputing investor acquired or should have first acquired, whichever is the earlier, the knowledge that the disputing investor had incurred loss or damage referred to in paragraph 1.

7. (a) In the event that an investment dispute has been submitted to courts of justice or administrative tribunals or agencies or any other binding dispute settlement mechanism established under the laws and regulations of the disputing Party, any arbitration set forth in paragraph 4 can be sought only if the disputing investor withdraws, in accordance with the laws and regulations of the disputing Party, its claim from such domestic remedies before the final decisions are made therein.

- (b) In the event that an investment dispute has been submitted for resolution under one of the arbitrations set forth in paragraph 4, the same investment dispute shall not be submitted for resolution under courts of justice, administrative tribunals or agencies or any other binding dispute settlement mechanism established under the laws and regulations of the disputing Party.

8. An arbitral tribunal established under paragraph 4 shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.

9. The disputing Party shall deliver to the other Contracting Party:

- (a) written notice of the investment dispute submitted to the arbitration no later than thirty days after the date on which the investment dispute was submitted; and
- (b) copies of all pleadings filed in the arbitration.

10. The Contracting Party which is not the disputing Party may, upon written notice to the disputing parties, make submissions to the arbitral tribunal on a question of interpretation of this Agreement.

11. The arbitral tribunal may award only:

- (a) a judgment whether or not there has been a breach by the disputing Party of any obligation under this Agreement with respect to the disputing investor and its investments; and
- (b) one or both of the following remedies, only if there has been such a breach:
 - (i) monetary damages and applicable interest; and
 - (ii) restitution of property, in which case the award shall provide that the disputing Party may pay monetary damages and any applicable interest, in lieu of restitution.

The arbitral tribunal may also award cost and attorney's fees in accordance with this agreement and applicable arbitral rules.

12. The disputing Party may make available to the public in a timely manner all documents, including an award, submitted to, or issued by, an arbitral tribunal established under paragraph 4, subject to redaction of:

- (a) confidential business information;
- (b) information which is privileged or otherwise protected from disclosure under the applicable laws and regulations of either Contracting Party; and
- (c) information which shall be withheld pursuant to the relevant arbitration rules.

13. Unless the disputing parties agree otherwise, the arbitration shall be held in a country that is a party to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, June 10, 1958 (hereinafter referred to in this Article as "the New York Convention").

14. The award rendered by the arbitral tribunal shall be final and binding upon the disputing parties. This award shall be executed in accordance with the applicable laws and regulations, as well as relevant international law including the ICSID Convention and the New York Convention, concerning the execution of award in force in the country where such execution is sought.

Article 19 General and Security Exceptions

1. Subject to the requirement that such measures are not applied by a Contracting Party in a manner which would constitute a means of arbitrary or unjustifiable discrimination against, or a disguised restriction on investors of the other Contracting Party and their investments in the Area of the former Contracting Party, nothing in this Agreement shall be construed so as to prevent the former Contracting Party from adopting or enforcing measures:

- (a) necessary to protect human, animal or plant life or health;
- (b) necessary to protect public morals or to maintain public order, provided that the public order exception may only be invoked where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society;

- (c) necessary to secure compliance with the laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:
 - (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contract;
 - (ii) the protection of the privacy of the individual in relation to the processing and dissemination of personal data and the protection of confidentiality of personal records and accounts; or
 - (iii) safety; or
- (d) imposed for the protection of national treasures of artistic, historic or archaeological value.

2. Nothing in this Agreement other than Article 14 shall be construed to prevent a Contracting Party from adopting or enforcing measures:

- (a) which it considers necessary for the protection of its essential security interests:
 - (i) taken in time of war, or armed conflict, or other emergency in that Contracting Party or in international relations; or
 - (ii) relating to the implementation of national policies or international agreements respecting the non-proliferation of weapons; or
- (b) in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Article 20 Temporary Safeguard Measures

1. A Contracting Party may adopt or maintain measures not conforming with its obligations under Article 2 relating to cross-border capital transactions and Article 16:

- (a) in the event of serious balance-of-payments and external financial difficulties or threat thereof; or

- (b) in cases where, in exceptional circumstances, movements of capital cause or threaten to cause serious difficulties for macroeconomic management, in particular, monetary and exchange rate policies.

2. Measures referred to in paragraph 1:

- (a) shall be consistent with the Articles of Agreement of the International Monetary Fund, so long as the Contracting Party taking the measures is a party to the said Articles;
- (b) shall not exceed those necessary to deal with the circumstances set out in paragraph 1;
- (c) shall be temporary and shall be eliminated as soon as conditions permit;
- (d) shall be promptly notified to the other Contracting Party; and
- (e) shall avoid unnecessary damages to the commercial, economic and financial interests of the other Contracting Party.

3. Nothing in this Agreement shall be regarded as altering the rights enjoyed and obligations undertaken by a Contracting Party as a party to the Articles of Agreement of the International Monetary Fund.

Article 21
Prudential Measures

1. Notwithstanding any other provisions of this Agreement, a Contracting Party shall not be prevented from taking measures relating to financial services for prudential reasons, including measures for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by an enterprise supplying financial services, or to ensure the integrity and stability of its financial system.

2. Where the measures taken by a Contracting Party pursuant to paragraph 1 do not conform with this agreement, they shall not be used as a means of avoiding the obligations of the Contracting Party under this Agreement.

Article 22
Intellectual Property Rights

1. The Contracting Parties shall grant and ensure the adequate and effective protection of intellectual property rights, and promote efficiency and transparency in intellectual property protection system. For this purpose, the Contracting Parties shall promptly consult with each other at the request of either Contracting Party. Depending on the results of the consultation, each Contracting Party shall, in accordance with its applicable laws and regulations, take appropriate measures to remove the factors which are recognised as having adverse effects to the investments of investors of the other Contracting Party.

2. Nothing in this Agreement shall affect the rights and obligations of the Contracting Parties under multilateral agreements in respect of protection of intellectual property rights to which the Contracting Parties are parties.

3. Nothing in this Agreement shall be construed so as to oblige either Contracting Party to extend to investors of the other Contracting Party and to their investments treatment accorded to investors of a non-Contracting Party and to their investments by virtue of multilateral agreements in respect of protection of intellectual property rights, to which the former Contracting Party is a party.

Article 23
Taxation

1. Nothing in this Agreement shall apply to taxation measures except as expressly provided for in paragraphs 3, 4 and 5 of this Article.

2. Nothing in this Agreement shall affect the rights and obligations of either Contracting Party under tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

3. Articles 1, 5, 8, 13 and 28 shall apply to taxation measures.

4. Articles 17 and 18 shall apply to disputes regarding taxation measures to the extent covered by paragraph 3.

5. Article 24 shall apply to matters regarding taxation measures to the extent covered by paragraph 3.

Article 24
Joint Committee

1. The Contracting Parties shall establish a Joint Committee (hereinafter referred to as "the Committee") with a view to accomplishing the objectives of this Agreement. The functions of the Committee shall be:

- (a) to discuss and review the implementation and operation of this Agreement;
- (b) to review the non-conforming measures maintained, amended or modified pursuant to paragraph 1 of Article 7 for the purpose of contributing to the reduction or elimination of such non-conforming measures;
- (c) to discuss the non-conforming measures adopted or maintained pursuant to paragraph 2 of Article 7 for the purpose of encouraging favourable conditions for investors of the Contracting Parties;
- (d) to exchange information on and to discuss investment-related matters within the scope of this Agreement, which relate to improvement of investment environment; and
- (e) to discuss any other investment-related matters concerning this Agreement.

2. The Committee may, as necessary, make appropriate recommendations by consensus to the Contracting Parties for the more effective functioning or the attainment of the objectives of this Agreement.

3. The Committee shall be composed of representatives of the Contracting Parties. The Committee may, upon mutual consent of the Contracting Parties, invite representatives of relevant entities other than the Governments of the Contracting Parties with the necessary expertise relevant to the issues to be discussed, and hold joint meetings with the private sectors.

4. The Committee shall determine its own rules of procedure to carry out its functions.

5. The Committee may establish sub-committees and delegate specific tasks to such sub-committees.

6. The Committee shall meet upon the request of either Contracting Party.

Article 25
Health, Safety and Environmental Measures
and Labour Standards

Each Contracting Party shall refrain from encouraging investment by investors of the other Contracting Party by relaxing its health, safety or environmental measures or by lowering its labour standards. To this effect each Contracting Party should not waive or otherwise derogate from such measures or standards as an encouragement for the establishment, acquisition or expansion in its Area of investments by investors of the other Contracting Party and of a non-Contracting Party.

Article 26
Denial of Benefits

1. A Contracting Party may deny the benefits of this Agreement to an investor of the other Contracting Party that is an enterprise of the other Contracting Party and to its investments if the enterprise is owned or controlled by an investor of a non-Contracting Party and the denying Contracting Party:

- (a) does not maintain diplomatic relations with the non-Contracting Party; or
- (b) adopts or maintains measures with respect to the non-Contracting Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Agreement were accorded to the enterprise or to its investments.

2. Subject to prior notification and consultation, a Contracting Party may deny the benefits of this Agreement to an investor of the other Contracting Party that is an enterprise of the other Contracting Party and to its investments if the enterprise is owned or controlled by an investor of a non-Contracting Party and the enterprise has no substantial business activities in the Area of the other Contracting Party.

3. For the purpose of this Article, an enterprise is:
- (a) "owned" by an investor if more than fifty percent of the equity interest in it is owned by the investor; and
 - (b) "controlled" by an investor if the investor has the power to name a majority of its directors or otherwise to legally direct its actions;

Article 27
Headings

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

Article 28
Final Provisions

1. This Agreement shall enter into force on the thirtieth day after the date of exchange of diplomatic notes informing each other that their respective legal procedures necessary for the entry into force of this Agreement have been completed. It shall remain in force for a period of ten years after its entry into force and shall continue in force unless terminated as provided in paragraph 2.
2. A Contracting Party may, by giving one year's advance notice in writing to the other Contracting Party, terminate this Agreement at the end of the initial ten year period or at any time thereafter.
3. This Agreement shall also apply to all investments of investors of either Contracting Party acquired in the Area of the other Contracting Party in accordance with the applicable laws and regulations of that other Contracting Party prior to the entry into force of this Agreement.
4. In respect of investments acquired prior to the date of termination of this Agreement, the provisions of this Agreement shall continue to be effective for a period of ten years from the date of termination of this Agreement.
5. This Agreement shall not apply to claims arising out of events which occurred prior to its entry into force.

6. The Annexes to this Agreement shall form an integral part of this Agreement.

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

DONE at Tokyo, on this fifteenth day of December, 2013, in duplicate in the English language.

FOR THE GOVERNMENT OF JAPAN:

FOR THE GOVERNMENT OF
THE REPUBLIC OF THE UNION OF
MYANMAR:

岸田文雄

Kan Zaw

Annex I
Reservations for Measures referred to
in paragraph 1 of Article 7

1. The Schedule of a Contracting Party sets out, pursuant to paragraph 1 of Article 7, the reservations taken by that Contracting Party with respect to existing measures that do not conform with obligations imposed by:

- (a) Article 2 (National Treatment);
- (b) Article 3 (Most-Favoured-Nation Treatment); or
- (c) Article 6 (Prohibition of Performance Requirements).

2. Each reservation sets out the following elements:

- (a) "Sector" refers to the general sector in which the reservation is taken;
- (b) "Sub-Sector" refers to the specific sector in which the reservation is taken;
- (c) "Industry Classification" refers, where applicable, and only for transparency purposes, to the activity covered by the reservation according to domestic or international industry classification codes;
- (d) "Type of Reservation" specifies the obligations referred to in paragraph 1 for which the reservation is taken;
- (e) "Measures" identifies the existing laws, regulations or other measures for which the reservation is taken. A measure cited in the "Measures" element:
 - (i) means the measure as amended, continued, or renewed as of the date of entry into force of this Agreement; and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure; and
- (f) "Description" sets out, with regard to the obligations referred to in paragraph 1, the non-conforming aspects of the existing measures for which the reservation is taken.

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

4. For the purpose of this Annex:

- (a) the term "JSIC" means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised on November 6, 2007.
- (b) the term "CPC" means the Provisional Central Product Classification (Statistical paper Series M, No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991); and
- (c) the term "ISIC" means the International Standard Industrial Classification of All Economic Activities third revision (United Nations, New York, 1990).

Schedule of Japan

- 1 Sector: Agriculture, Forestry and Fisheries
(Plant Breeder's Right)
- Sub-Sector:
- Industry Classification: JSIC 0119 Miscellaneous crop farming
- JSIC 0243 Tree seed gathering and forest nursery services
- JSIC 0413 Seaweed aquaculture
- JSIC 0415 Seed aquaculture
- Type of Reservation: National Treatment (Article 2)
Most-Favoured-Nation Treatment (Article 3)
- Measures: Seeds and Seedlings Law
(Law No. 83 of 1998), Article 10
- Description: A foreign person who has neither a domicile nor residence (nor the place of business, in the case of a legal person) in Japan cannot enjoy a plant breeder's right or related rights except in any of the following cases:
- (a) where the country of which the person is a national or the country in which the person has a domicile or residence (or its place of business, in the case of a legal person) is a contracting party to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as Revised at Geneva on November 10, 1972, on October 23, 1978, and on March 19, 1991;

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

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

2 Sector: Finance

Sub-Sector: Banking

Industry Classification: JSIC 622 Banks, except central bank

JSIC 631 Financial institutions for small-businesses

Type of Reservation: National Treatment (Article 2)

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

Description: The deposit insurance system only covers financial institutions which have their head offices within the jurisdiction of Japan. The deposit insurance system does not cover deposits taken by branches of foreign banks.

3 Sector: Heat Supply

Sub-Sector:

Industry Classification: JSIC 3511 Heat supply

Type of Reservation: National Treatment (Article 2)

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

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

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

4 Sector: Information and Communications

Sub-Sector: Telecommunications

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

JSIC 3711 Regional telecommunications, except wire broadcast telephones

JSIC 3731 Services incidental to telecommunications

Type of Reservation: National Treatment (Article 2)

Prohibition of Performance Requirements (Article 6)

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

Description: 1. Nippon Telegraph and Telephone Corporation may not enter the name and address in its register of shareholders if the aggregate of the ratio of the voting rights directly and/or indirectly held by the persons set forth in subparagraphs (a) through (c) reaches or exceeds one third:

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

(b) a foreign government or its representative; and

(c) a foreign legal person or a foreign entity.

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

5 Sector: Information and Communications

Sub-Sector: Telecommunications and Internet Based Services

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

JSIC 3712 Long-distance telecommunications

JSIC 3719 Miscellaneous fixed telecommunications

JSIC 3721 Mobile telecommunications

JSIC 401 Internet based services

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

Type of Reservation: National Treatment (Article 2)

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

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

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

6 Sector: Manufacturing

Sub-Sector: Drugs and Medicines Manufacturing

Industry Classification: JSIC 1653 Biological preparations

Type of Reservation: National Treatment (Article 2)

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

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

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

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

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

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

Type of
Reservation:

National Treatment (Article 2)

Measures:

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

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

Description:

The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investments in leather and leather products manufacturing industry in Japan.

8 Sector: Matters Related to the Nationality
of a Ship

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Prohibition of Performance
Requirements (Article 6)

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

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

9 Sector: Mining

Sub-Sector:

Industry Classification: JSIC 05 Mining and quarrying of stone and gravel

Type of Reservation: National Treatment (Article 2)

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

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

10 Sector: Oil Industry

Sub-Sector:

Industry Classification:	JSIC 053	Crude petroleum and natural gas production
	JSIC 1711	Petroleum refining
	JSIC 1721	Lubricating oils and greases (not made in petroleum refineries)
	JSIC 1741	Paving materials
	JSIC 1799	Miscellaneous petroleum and coal products
	JSIC 4711	Ordinary warehousing
	JSIC 4721	Refrigerated warehousing
	JSIC 5331	Petroleum
	JSIC 6051	Petrol stations (gasoline service stations)
	JSIC 6052	Fuel stores, except gasoline service stations
	JSIC 9299	Miscellaneous business services, n.e.c.

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

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

Type of Reservation: National Treatment (Article 2)

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

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

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

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

Sub-Sector:

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

Type of Reservation: National Treatment (Article 2)

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

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

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

12 Sector: Security Guard Services

Sub-Sector:

Industry Classification: JSIC 9231 Guard services

Type of Reservation: National Treatment (Article 2)

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

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

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

13 Sector: Transport

Sub-Sector: Air Transport

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

JSIC 4611 Air transport

Type of Reservation: National Treatment (Article 2)

Most-Favoured-Nation Treatment (Article 3)

Prohibition of Performance Requirements (Article 6)

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

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

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

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

2. Permission of the Minister of Land, Infrastructure, Transport and Tourism for conducting air transport business as a Japanese air carrier is not granted to the following natural persons or entities applying for the permission:

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

(b) a foreign country, or a foreign public entity or its equivalent;

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

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

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

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

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

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

14 Sector: Transport

Sub-Sector: Air Transport

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

JSIC 4621 Aircraft service, except air transport

Type of Reservation: National Treatment (Article 2)

Prohibition of Performance Requirements (Article 6)

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

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

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

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

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

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

(b) a foreign country, or a foreign public entity or its equivalent;

(c) a legal person or other entity constituted under the laws of any foreign country; and

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

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

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

15 Sector: Transport

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

Industry Classification:

Type of Reservation: National Treatment (Article 2)
Prohibition of Performance Requirements (Article 6)

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

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

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

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

16 Sector: Transport

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

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

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

Type of Reservation: National Treatment (Article 2)

Most-Favoured-Nation Treatment
(Article 3)

Prohibition of Performance
Requirements (Article 6)

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

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

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

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

(b) a foreign country, or a foreign
public entity or its
equivalent;

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

17 Sector: Transport

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

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

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

Type of Reservation: National Treatment (Article 2)

Most-Favoured-Nation Treatment (Article 3)

Prohibition of Performance Requirements (Article 6)

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

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

Description: 1. The following natural persons or entities may not conduct freight forwarding business using air transportation between points within Japan:

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

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

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

18 Sector: Transport

Sub-Sector: Railway Transport

Industry Classification: JSIC 421 Railway transport
 JSIC 4851 Railway facilities services

Type of Reservation: National Treatment (Article 2)

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

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

19 Sector: Transport

Sub-Sector: Road Passenger Transport

Industry Classification: JSIC 4311 Common omnibus operators

Type of Reservation: National Treatment (Article 2)

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

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

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

20 Sector: Transport

Sub-Sector: Water Transport

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

Type of Reservation: National Treatment (Article 2)

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

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

21 Sector: Transport

Sub-Sector: Water Transport

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Most-Favoured-Nation Treatment
(Article 3)

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

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

22 Sector: Water Supply and Waterworks

Sub-Sector:

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

Type of Reservation: National Treatment (Article 2)

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

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

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

Schedule of the Republic of the Union of Myanmar

1	Sector:	Manufacturing Sector	
	Sub-Sector:	Manufacture of beverages	
	Industry Classification:	ISIC 1551	Distilling, rectifying and blending of spirits; ethyl alcohol production from fermented materials
		ISIC 1553	Manufacture of malt liquors and malt
	Type of Reservation:	National Treatment (Article 2)	
	Measures:	Foreign Investment Law (2012), Section 4(f)	
		Foreign Investment Rules (2013), Rule 5	
		Myanmar Investment Commission Notification No. 1/2013; List of Economic Activities to be allowed only in the form of Joint Venture with Myanmar Citizens, No. 6 and 7	
	Description:	Foreign investors may be permitted to invest in the areas of manufacturing and marketing of malt and malt liquors and non-aerated products and distilling, blending, rectifying, bottling and marketing of all kinds of spirit beverages and non-beverages only in the form of joint venture with Myanmar citizens.	

2 Sector: Manufacturing Sector

Sub-Sector: Manufacture of soft beverages,
aerated and non-aerated products

Industry
Classification: ISIC 1554 Manufacture of soft
drinks: production of
mineral waters

Type of
Reservation: National Treatment (Article 2)
Performance Requirement (Article 6)

Measures: Foreign Investment Law (2012),
Section 4(f)
Foreign Investment Rules (2013),
Rule 5
Myanmar Investment Commission
Notification No. 1/2013; List of
Economic Activities Permitted with
the recommendations of the Relevant
Ministry, No. 5(2)

Description: Foreign investors may be permitted to
invest in business related to
manufacture of soft beverages,
aerated and non-aerated products only
if they meet the condition that local
raw materials must be used at least
20% and local cropping raw materials
must be used at least 60% after 3
years of factory completion.

3 Sector: Manufacturing Sector

Sub-Sector: Manufacture of tobacco and tobacco products

Industry Classification: ISIC 1600 Manufacture of tobacco products

Type of Reservation: National Treatment (Article 2)
Performance Requirement (Article 6)

Measures: Foreign Investment Law (2012), Section 4(f)
Foreign Investment Rules (2013), Rule 5
Myanmar Investment Commission Notification No. 1/2013; List of Economic Activities Permitted with the recommendations of the Relevant Ministry, No. 5(4)

Description: Foreign investors may be permitted to invest in business related to manufacture of tobacco and tobacco products only if they meet the condition that they shall export 90% of their products and (a) they shall use minimum 50% domestically produced tobacco leaves within the first three years of operation; or (b) they shall be allowed to use imported tobacco leaves which are brought with at least 50% of the income obtained by exporting domestically produced tobacco leaves.

4 Sector: Manufacturing Sector

Sub-Sector: Manufacture of pulp, paper and paper board

Industry Classification: ISIC 2101 Manufacturing of pulp, paper and paperboard

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Investment Law (2012), Section 4(f)

Foreign Investment Rules (2013), Rule 5

Myanmar Investment Commission Notification No. 1/2013; List of Economic Activities to be allowed only in the form of Joint Venture with Myanmar Citizens, No. 16 and 17

Description: Foreign investors may be permitted to invest in business related to manufacture of pulp, paper and paper board only in the form of joint venture with Myanmar citizens.

5 Sector: Manufacturing Sector

Sub-Sector: Manufacture of pharmaceutical drugs

Industry Classification: ISIC 2423 Manufacture of pharmaceuticals, medicinal chemicals and botanical products

Type of Reservation: National Treatment, (Article 2)

Measures: Foreign Investment Law (2012), Section 4(b) and (f)

Foreign Investment Rules (2013), Rule 5

Myanmar Investment Commission Notification No. 1/2013; List of Economic Activities to be allowed only in the form of Joint Venture with Myanmar Citizens, No. 23

Description: Foreign investors may be permitted to invest in the areas of manufacture of traditional medicines only in the form of joint venture with Myanmar citizens.

6 Sector: Manufacturing Sector

Sub-Sector: Manufacture of Refined Petroleum Products

Services relating to manufacture of refined petroleum products

Industry Classification: ISIC 2320 Manufacture of refined petroleum products

CPC 88450 Manufacture of coke, refined petroleum products and nuclear fuel, on a fee or contract basis

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Investment Law (2012), Section 4(f)

Foreign Investment Rules (2013), Rule 5

Myanmar Investment Commission Notification No. 1/2013; List of Economic Activities Permitted with the Recommendation of the Relevant Ministry, No. 9

Description: Foreign investors may only be permitted to invest in business related to oil refining and refining activities subject to the recommendation of Ministry of Energy.

7 Sector: Manufacturing Sector

Sub-Sector: Publishing of Newspaper Business
Reproduction of Recorded Media

Industry Classification: ISIC 2212 Publishing of newspapers, journals and periodicals
ISIC 2230 Reproduction of recorded media

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Investment Law (2012), Section 4(f)
Foreign Investment Rules (2013), Rule 5
Myanmar Investment Commission Notification No. 1/2013; List of Economic Activities Permitted with the Recommendation of the Relevant Ministry, No. 13

Description: Foreign investors may be permitted to invest in business related to publishing of newspapers, journals and periodicals and reproduction of recorded media only with the recommendation of the Ministry of Information.

8	Sector:	Forestry and Services Incidental to Forestry	
	Sub-Sector:	Production and extraction of hard-wood ¹ from the natural forest ²	
		Services incidental to Forestry	
		- Extraction of logs from the natural forests	
		- Protected areas system ³	
	Industry Classification:	ISIC 0200	Forestry, logging and related service activities
		CPC 88140	Services incidental to forestry and logging
	Type of Reservation:	National Treatment (Article 2)	
	Measures:	Foreign Investment Law (2012), Section 4(c)	
		Foreign Investment Rules (2013), Rule 7	
		Myanmar Investment Commission Notification No. 1/2013; List of Economic Activities Permitted with the recommendation of the Relevant Ministry, No. 3(1), (5) and (9)	

¹ Hard-wood is used to describe wood from non-monocot angiosperm trees and for those trees themselves. These are usually broad-leaved; in temperate and boreal latitude they are mostly deciduous, but in tropics and subtropics mostly evergreen.

² Natural forests are the forest which might be managed to some degree or unmanaged. After an adequate amount of time without intervention, such a forest might develop some of the basic structure of virgin forest.

³ Protected Areas System is an area of land/or sea especially dedicated to the protection of biological diversity, and of natural and associated cultural resources, and managed through legal or other legal or other effective means (IUCN, 1994).

Description: Foreign investors may be permitted to invest in business related to National Park, logging except teak in reserved or protected public forest on a long-term basis, and establishment of forest plantation subject to the recommendation of Ministry of Environmental Conservation and Forestry.

9 Sector: Fishery

Sub-Sector: Fishing of marine fish, prawns and other aquatic organisms

Services related to processing on board for fish, crustaceans and mollusks and other related services, exploitation of sea-products

Services related to exploitation of fresh water fisheries

Quarantine, quality control of aquaculture and processing products, services on supply of feed, medicines and chemical for aquaculture

Industry Classification: ISIC 0500 Fishing, operation of fish hatcheries and fish farms; service activities incidental to fishing

CPC 88200 Service incidental to fishing

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Investment Law (2012), Section 4(j) and 5

Myanmar Marine Fisheries Law (1990), Chapter 2 and 5

Law relating to the Fishing Right of Foreign Fishing Vessels (1989), Section 6

Description:

Foreign investors desiring to carry out operations relating to fishery in a systematic manner under Foreign Investment Law or in joint venture shall apply for a licence to the Director General of the Department of Fisheries in a prescribed application. (The term "fishery" includes catching, breeding, exploring, researching, seeding, propagating, processing, transporting, storing and selling of fish.)

If any person residing abroad or his agent desires to engage in fishery in the exclusive economic zone (beyond the territorial sea), the person shall apply to the Department of Fisheries in the prescribed form.

10 Sector: Mining and Quarrying

Sub-Sector: Exploration and Extraction of Natural Gas

Exploration and Extraction of Petroleum

Industry Classification: ISIC 1110 Extraction of crude petroleum and natural gas

Type of Reservation: Performance Requirement (Article 6)

Measures: Foreign Investment Law (2012), Section 4(f)

Myanmar Investment Commission Notification No. 1/2013; List of Economic Activities Permitted with the recommendation of the Relevant Ministry, No. 9(2)

Description: Foreign investors may be permitted to invest in business related to exploration and extraction of natural gas and petroleum subject to the requirement imposed by a production sharing contract between investors and Ministry of Energy, that the management committee shall consist of a total of 7 members, 4 from the Myanmar side, one of whom shall act as Chairman and 3 from the investor side.

11 Sector: Services Incidental to Mining and Quarrying

Sub-Sector: Services relating to Exploration and Extraction of Natural Gas

Services relating to Exploration and Extraction of Petroleum

Industry Classification: CPC 88300 Services incidental to mining

Type of Reservation: National Treatment (Article 2)

Performance Requirement (Article 6)

Measures: Foreign Investment Law (2012), Section 4(f)

Foreign Investment Rules (2013), Rule 5

Myanmar Investment Commission Notification No. 1/2013; List of Economic Activities Permitted with the recommendations of the Relevant Ministry, No. 9(2)

Description: Foreign investors may be permitted to invest in services related to exploration and extraction of natural gas and petroleum, only in a form of joint venture with the Government of Myanmar or Myanmar citizens.

Foreign investors may be permitted to invest in services related to exploration and extraction of natural gas and petroleum subject to the requirement imposed by a production sharing contract between investors and Ministry of Energy, that the management committee shall consist of a total of 7 members, 4 from the Myanmar side, one of whom shall act as Chairman and 3 from the investor side.

12 Sector: Transport

Sub-Sector: Domestic and international air transport services

Industry Classification:

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Investment Law (2012), Section 4(f)

Foreign Investment Rules (2013), Rule 5 and 35

Myanmar Investment Commission Notification No. 1/2013; List of Economic Activities to be allowed only in the form of Joint Venture with Myanmar Citizens, No. 35 and 36

Description: Foreign investors may be permitted to invest in business related to domestic and international air transport services only by joint-venture with either the Myanmar Airways or Myanmar citizens subject to approval of the Ministry of Transport.

13 Sector: Transport

Sub-Sector: Internal Waterways Transport
(Passenger/Freight)

Industry Classification: CPC 7221 Inland Water Transport
Services of Passengers

CPC 7222 Inland Water Transport
Services of Freight

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Investment Law (2012),
Section 4(f)

Foreign Investment Rules (2013),
Rule 5

Myanmar Investment Commission
Notification No. 1/2013; List of
Economic Activities to be allowed
only in joint venture with Myanmar
Citizens, No. 37

Description: Foreign investors may be permitted
to invest in business related to
inland water transport services of
passengers and freight only by joint
venture with Myanmar citizens
subject to the approval of Ministry
of Transport.

14 Sector: Finance

Sub-Sector: Banking
Securities services
Insurance services

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)

Measures: Financial Institutions of Myanmar
Law (1990), Section 13 and 14

Securities and Exchange Law (2013),
Section 7 and 8

Insurance Business Law (1996),
Chapter 5

Description: Foreign investors may be permitted
to invest in the area of finance
(banking, securities and insurance
services) subject to relevant
regulations under Financial
Institutions of Myanmar Law,
Securities and Exchange Law and
Insurance Business Law.

Note: Paragraph 1(d) of Article 7
of this agreement shall apply
only after the issuance of
relevant regulations under
Financial Institutions of
Myanmar Law, Securities and
Exchange Law and Insurance
Business Law.

15 Sector: Postal and Telecommunication Services

Sub-Sector: Postal Service

Courier Service

Telecommunication Services

Voice telephone services

Packet-switched data transmission service

Circuit-switched data transmission service

Telex services

Telegraphs services

Facsimile services

Private leased circuit services

Electronic mail services

Voice mail services

On-Line information and data base retrieval services

Electronic data interchange (EDI)

Enhanced/value-added facsimile services, including store and forward, store and retrieve

Code and protocol conversion

On-Line information and/or data processing (including transaction processing)

Industry Classification: CPC 843 Data processing services

CPC 7511 Postal services

CPC 7512 Courier services

CPC 7521 Public telephone services

	CPC 7522	Business network services
	CPC 7523	Data and message transmission services
	CPC 7529	Other telecommunications services
Type of Reservation:	National Treatment (Article 2)	
Measures:	Foreign Investment Law (2012), Section 4(f)	
	Foreign Investment Rules (2013), Rule 5	
	Myanmar Investment Commission Notification No. 1/2013; List of Economic Activities Permitted with the Recommendation of the Relevant Ministry, No. 8(1) and (2)	
Description:	Foreign investors may be permitted to invest in business related to local and international postal services and network and network-support services, only with the approval of the Ministry of Communication and Information Technology.	

16 Sector: Transport

Sub-Sector: Road Transport

Industry Classification: CPC 7111 Passenger transportation
CPC 7112 Freight transportation

Type of Reservation: National Treatment (Article 2)

Measures: Foreign Investment Law (2012),
Section 4(f)

Foreign Investment Rules (2013),
Rule 5

Myanmar Investment Commission
Notification, Re-classification of
Types of Economic Activities; List of
Economic Activities to be allowed
only in the form of Joint Venture
with Myanmar Citizens with the
recommendation of the Relevant
Ministry, No. 6(6)

Description: Foreign investors are permitted to
invest in business related to road
transport only by joint venture with
either the Government of Myanmar or
Myanmar citizens subject to the
consent of Ministry of Rail
Transportation.

17 Sector: Service incidental to Forestry

Sub-Sector: Export of timber

Industry
Classification: ISIC 0200 Forestry; logging and
related service
activities

Type of
Reservation: Performance Requirement (Article 6)

Measures: Ministry of Environmental
Conservation and Forestry
Notification, No. 26/2013

Description: Export of logs is to be prohibited
from 1 April 2014. Any types of
timber shall be exported in value-
added forms.

18 Sector: International Trade Business

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)

Measures: Myanmar Companies Act (1914),
Section 27A(1)

Description: Foreigners are not allowed to
operate international trade
businesses in Myanmar. However,
in cases where they operate
manufacturing businesses, they
may be permitted to operate
international trade businesses
to the extent necessary for their
manufacturing businesses, subject to
Section 27A(1) of Myanmar Company
Act.

19 Sector: All Sectors other than International Trade Business

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 2)

Measures: Myanmar Companies Act (1914), Section 27A(1)

Description: All foreign companies, whether a hundred percent owned or a joint venture, and their branch/representative offices shall obtain a permit to conduct business operation.

The permit shall be granted together with a registration certificate within 24 hours upon the submission of the application except in cases where further scrutiny by the Ministry of National Planning and Economic Development is necessary. The permit shall be subject to renewal in every five years.

Annex II
Reservations for Measures referred to
in paragraph 2 of Article 7

1. The Schedule of a Contracting Party sets out, pursuant to paragraph 2 of Article 7, the reservations taken by that Contracting Party with respect to specific sectors, sub-sectors or activities for which it may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 2 (National Treatment);
- (b) Article 3 (Most-Favoured-Nation Treatment); or
- (c) Article 6 (Prohibition of Performance Requirements).

2. Each reservation sets out the following elements:

- (a) "Sector" refers to the general sector in which the reservation is taken;
- (b) "Sub-Sector" refers to the specific sector in which the reservation is taken;
- (c) "Industry Classification" refers, where applicable, and only for transparency purposes, to the activity covered by the reservation according to domestic or international industry classification codes;
- (d) "Type of Reservation" specifies the obligations referred to in paragraph 1 for which the reservation is taken;
- (e) "Description" sets out the scope of the sector, sub-sector or activities covered by the reservation; and
- (f) "Existing Measures" identifies, for transparency purposes, existing measures that apply to the sector, sub-sector or activities covered by the reservation.

3. In the interpretation of a reservation, all elements of the reservation shall be considered. The "Description" element shall prevail over all the other elements.

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

Schedule of Japan

- 1 Sector: All Sectors
- Sub-Sector:
- Industry
Classification:
- Type of
Reservation: National Treatment (Article 2)
Prohibition of Performance
Requirements (Article 6)
- Description: When transferring or disposing of
its equity interests in, or the
assets of, a state enterprise or a
governmental entity, Japan reserves
the right to:
- (a) prohibit or impose limitations
on the ownership of such
interests or assets by
investors of the Republic of
the Union of Myanmar or their
investments;
 - (b) impose limitations on the
ability of investors of the
Republic of the Union of
Myanmar or their investments as
owners of such interests or
assets to control any resulting
enterprise; or
 - (c) adopt or maintain any measure
relating to the nationality of
executives, managers or members
of the board of directors of
any resulting enterprise.
- Existing
Measures:

2 Sector: All Sectors

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Prohibition of Performance
Requirements (Article 6)

Description: In the event where the supply of telegraph services, postal services and betting and gambling services, manufacture of tobacco products, manufacture of Bank of Japan notes, minting and sale of coinage in Japan, which are restricted to designated enterprises or governmental entities, are liberalised to those other than the designated enterprises or governmental entities, or in the event where such designated enterprises or governmental entities no longer operate on a non-commercial basis, Japan reserves the right to adopt or maintain any measure relating to those activities.

Existing
Measures:

3 Sector: All Sectors

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Most-Favoured-Nation Treatment
(Article 3)

Description: National Treatment and Most-
Favoured-Nation Treatment may not be
accorded to investors of the
Republic of the Union of Myanmar and
their investments with respect to
subsidies.

Existing
Measures:

4 Sector: Aerospace Industry

Sub-Sector: Aircraft Industry
Space Industry

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Prohibition of Performance
Requirements (Article 6)

Description: Japan reserves the right to adopt or
maintain any measure relating to
investment in aircraft industry and
space industry.

Existing
Measures: Foreign Exchange and Foreign
Trade Law (Law No. 228 of 1949),
Articles 27 and 30

Cabinet Order on Foreign Direct
Investment (Cabinet Order No. 261
of 1980), Articles 3 and 5

5 Sector: Arms and Explosives Industry

Sub-Sector: Arms Industry
Explosives Manufacturing Industry

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Prohibition of Performance
Requirements (Article 6)

Description: Japan reserves the right to adopt
or maintain any measure relating to
investment in arms industry and
explosives manufacturing industry.

Existing
Measures: Foreign Exchange and Foreign
Trade Law (Law No. 228 of 1949),
Articles 27 and 30

Cabinet Order on Foreign Direct
Investment (Cabinet Order No. 261
of 1980), Articles 3 and 5

6 Sector: Energy

Sub-Sector: Electricity Utility Industry
Gas Utility Industry
Nuclear Energy Industry

Industry Classification:

Type of Reservation: National Treatment (Article 2)
Prohibition of Performance Requirements (Article 6)

Description: Japan reserves the right to adopt or maintain any measure relating to investment in the energy industry listed in the "Sub-Sector" element.

Existing Measures: Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27 and 30
Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 and 5

7 Sector: Fisheries

Sub-Sector: Fisheries within the Territorial Sea, Internal Waters, Exclusive Economic Zone and Continental Shelf

Industry Classification: JSIC 031 Marine fisheries
 JSIC 032 Inland water fisheries
 JSIC 041 Marine aquaculture
 JSIC 042 Inland water aquaculture
 JSIC 8093 Recreational fishing guide business

Type of Reservation: National Treatment (Article 2)
 Most-Favoured-Nation Treatment (Article 3)
 Prohibition of Performance Requirements (Article 6)

Description: Japan reserves the right to adopt or maintain any measure relating to investment in fisheries in the territorial sea, internal waters, exclusive economic zone and continental shelf of Japan.

For the purposes of this reservation, the term "fisheries" means the work of taking and cultivation of aquatic resources, including the following fisheries related activities:

- (a) investigation of aquatic resources without taking such resources;
- (b) luring of aquatic resources;
- (c) preservation and processing of fish catches;
- (d) transportation of fish catches and fish products; and

(e) provision of supplies to other vessels used for fisheries.

Existing
Measures:

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

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

Law for Regulation of Fishing Operation by Foreign Nationals (Law No. 60 of 1967), Articles 3, 4 and 6

Law concerning the Exercise of Sovereign Rights concerning Fisheries in the Exclusive Economic Zones (Law No. 76 of 1996), Articles 4, 5, 7, 8, 9, 10, 11, 12 and 14

8 Sector: Information and Communications

Sub-Sector: Broadcasting Industry

Industry Classification: JSIC 380 Establishments engaged in administrative or ancillary economic activities

JSIC 381 Public broadcasting, except cablecasting

JSIC 382 Private-sector broadcasting, except cablecasting

JSIC 383 Cablecasting

Type of Reservation: National Treatment (Article 2)
Prohibition of Performance Requirements (Article 6)

Description: Japan reserves the right to adopt or maintain any measure relating to investment in broadcasting industry.

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

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

Radio Law (Law No. 131 of 1950), Article 5

Broadcast Law (Law No. 132 of 1950), Articles 93, 116, 125, 159 and 161

9 Sector: Land Transaction

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Most-Favoured-Nation Treatment
(Article 3)

Description: With respect to the acquisition or
lease of land properties in Japan,
prohibitions or restrictions may be
imposed by Cabinet Order on foreign
nationals or legal persons, where
Japanese nationals or legal persons
are placed under identical or
similar prohibitions or restrictions
in the foreign country.

Existing
Measures: Alien Land Law (Law No. 42 of 1925),
Article 1

10 Sector: Public Law Enforcement and
Correctional Services and Social
Services

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)
Most-Favoured-Nation Treatment
(Article 3)
Prohibition of Performance
Requirements (Article 6)

Description: Japan reserves the right to adopt or
maintain any measure relating to
investment in public law enforcement
and correctional services, and in
social services such as income
security or insurance, social
security or insurance, social
welfare, primary and secondary
education, public training, health
and child care.

Existing
Measures:

Schedule of the Republic of the Union of Myanmar

1 Sector: All Sector (Land Ownership)

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)

Description: The provisions of Article 2 shall not apply to any measures affecting land Property and natural resources associated with land¹. Land is owned by the State. However, government-owned lands, lands owned by government departments or organisations and Private lands owned by the citizens can be leased up to initial 50 years depending upon the category of business and industry and the scale, and extendable for two consecutive terms of 10 years subject to the approval of the Myanmar Investment Commission.

The Farmland Law does not authorize the right of ownership, but provides land use certificate to grant the right to utilize the land. The person who has the right to use the farmland shall have the following rights:

- (a) right to have the farmland in possession, right to use the farm-land, and right to enjoy the benefit that arises from these rights;
- (b) right to sell, mortgage, lease, exchange and give the whole or part of the farmland in accordance with the stipulated terms and conditions;

¹ For the purpose of reservation, land includes residential land, commercial land, and industrial land and agricultural and livestock land.

- (c) right to accept the decision of the relevant court in accordance with the existing law if a dispute arises relating to the inheritance of the right to use the farmland;
- (d) right to use the farmland so long as there is no breach of the stipulated terms and conditions;
- (e) right to use for common interest with the investment of village co-operative or with private investors for the development of agriculture in the farmland; and
- (f) right to use the farm land for common interest, with foreigners or organisations in which foreigners are included, in accordance with the Foreign Investment Law of the Republic of the Union of Myanmar by cooperating.

Collection of land tax/revenue is yet to be decided by the State.

The Vacant, Fallow and Virgin Lands Management Law permits for the agriculture, livestock breeding and affiliated economic enterprise in respect of the period:

- (a) In the agricultural business:
 - (i) for perennial plant and orchard, permit not exceeding 30 years commencing from the year of permission; and
 - (ii) for seasonal crop, permit so long as there is no breach of the stipulated terms and conditions;

- (b) In the livestock breeding business, permit not exceeding 30 years commencing from the year of permission;
- (c) Permit multiple extension not exceeding 30 years in total depending upon the type of business after the expiry of the permitted period;
- (d) For the mineral production business permit will be granted in coordination with the Ministry of Mines of the Union Government; and
- (e) For other lawful businesses permitted by the Government, permission will be granted in coordination with the respective Ministries of the Union Government;

The Central Committee for the Vacant, Fallow and Virgin Lands Management shall determine the rate of security fees to be paid by the person who has obtained the right to cultivate or utilize the vacant, fallow and virgin lands in accordance with the type of business.

Depending upon the type of business and kind of crops, rate of land revenue to be collected and period for exemption of land revenue for cultivation and utilization of vacant fallow and virgin lands shall be decided by the Central Committee for the Vacant, Fallow and Virgin Lands Management.

Investment by the foreigners and organisations involving foreigners can be undertaken according to the approval of Myanmar Investment Commission.

Existing
Measures:

Transfer of Immovable Property
Restriction Law (1987)

Farmland Law (2012), Chapter III,
Section 9(a) to (f)

Vacant, Fallow and Virgin Lands
Management Law (2012), Chapter IV,
Section 11(a) to (e), and Chapter V,
Section 13 and 14

2 Sector: All Sectors

Sub-Sector:

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)

Description: Foreign investors shall appoint,
when appointing citizen skilled
workers, technicians and staff, at
least 25 percent within the first
two-year, at least 50 percent within
the second two-year and at least 75
percent within the third two-year
from the year of commencement of the
business.

Existing
Measures: Foreign Investment Law (2012)
Section 24(A)

3 Sector:	Manufacturing Sector
Sub-Sector:	Administration and maintenance of natural forest
	Manufacturing of traditional medicines
	Extraction of crude oil manually up to 1000 feet depth
	Small and medium size mineral production ²
	Production and plantation of traditional herbal plants
	Wholesale of semi-finished products and iron ores
	Production of traditional food
	Manufacturing the religious related materials and equipments
	Manufacturing the traditional and cultural materials and equipments
	Manufacturing based on the handicraft
Industry Classification:	
Type of Reservation:	National Treatment (Article 2)
Description:	Myanmar reserves the right to allow the aforementioned manufacturing activities only to Myanmar citizens in accordance with Foreign Investment Law.
Existing Measures:	Foreign Investment Law (2012), Section 4
	Foreign Investment Rules (2013), Rule 7, Schedule I

² Small and medium size mineral production means any mineral production which does not require huge and substantial investment and special technical know-how.

4 Sector: Services Sector

Sub-Sector: Private Traditional Hospitals

Trading of traditional herbal raw materials

Research and laboratory for Traditional medicines

Ambulance transportation service;

Establishment of health care centres for the aged

Restaurant contract, cargo transportation contract, cleaning and maintenance contract on the train

Small-scale agent services

Generating of electric power below 10 mega watt

Publishing and distribution of Periodicals in language of ethnic people including Myanmar language

Industry Classification:

Type of Reservation: National Treatment (Article 2)

Description: Myanmar reserves the right to allow the aforementioned services only to Myanmar citizens in accordance with Foreign Investment Law.

Existing Measures: Foreign Investment Law (2012), Section 4

Foreign Investment Rules (2013), Rule 7, Schedule I

5 Sector: Agricultural business

Sub-Sector: Designated agricultural business

Industry
Classification:

Type of
Reservation: National Treatment (Article 2)

Description: Myanmar reserves the right to designate sectors of agricultural business which are prohibited to foreign investors under Foreign Investment Law, to the extent that foreign investment in those sectors may cause negative economic impacts to local producers of agricultural products.

Existing
Measures: Foreign Investment Law (2012),
Section 4

Foreign Investment Rules (2013),
Rule 8, Schedule II

6 Sector: Livestock Breeding Business

Sub-Sector: Designated livestock breeding business

Industry Classification:

Type of Reservation: National Treatment (Article 2)

Description: Myanmar reserves the right to designate sectors of livestock breeding business which are prohibited to foreign investors under Foreign Investment Law, to the extent that foreign investment in those sectors may cause negative economic impacts to local producers of livestock products.

Existing Measures: Foreign Investment Law (2012), Section 4

Foreign Investment Rules (2013), Rule 9, Schedule III

7 Sector: Fishery

Sub-Sector: Fishing Business in the Territorial Waters of Myanmar

Industry Classification:

Type of Reservation: National Treatment (Article 2)

Description: Myanmar reserves the right to allow the fishing business in its inland waters and territorial waters only to Myanmar citizens.

Existing Measures: Foreign Investment Law (2012), Section 4(j)

Foreign Investment Rules (2013), Rule 10, Schedule IV(1) and (2)