

# **AGREEMENT BETWEEN JAPAN AND THE STATE OF ISRAEL FOR THE LIBERALIZATION, PROMOTION AND PROTECTION OF INVESTMENT**

The Government of Japan and the Government of the State of Israel respectively on behalf of Japan and the State of Israel (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, favorable and transparent conditions for greater investment by investors of one Contracting Party in the Territory of the other Contracting Party;

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

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

Have agreed as follows:

## **Section I. Investment**

### **Article 1. Definitions**

For the purposes of this Agreement:

(a) The term "investment" means every kind of asset made in accordance with applicable laws and regulations, 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;
- (iii) Bonds, debentures, loans and other forms of debt;
- (iv) Futures, options and other derivatives;
- (v) Rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;
- (vi) Claims to money and to any performance under contract having a financial value;
- (vii) Intellectual property rights and goodwill;
- (viii) Concessions, licenses, authorizations, permits and similar rights conferred by laws and regulations or under contracts, including those for the exploration and exploitation of natural resources; and
- (ix) Any other movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges;

An investment includes the amounts yielded by an investment, 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 an investment.

Note: For the avoidance of doubt in this Article, an investment does not include:

- (i) Public debt; or
- (ii) Claims to money arising solely from:

(A) Commercial contracts for the sale of goods or services by a national or an enterprise in the Territory of a Contracting Party to a national or an enterprise in the Territory of the other Contracting Party; or

(B) Credits granted in relation with a commercial transaction under a contract referred to in (ii)(A) of this note;

(b) The term "investment agreement" means a written agreement between the central or local government or authority of a Contracting Party and an investor of the other Contracting Party or its investment that is an enterprise in the Territory of the former Contracting Party, on which the investor or the investment relies in establishing or acquiring an investment in the former Contracting Party;

Note: Written agreement refers to an agreement in writing, executed by both parties, whether in a single instrument or in multiple instruments, that creates an exchange of rights and obligations, binding on both parties.

For greater certainty:

(i) a unilateral act of an administrative or judicial authority, such as a permit, license, concession or authorization issued by a Contracting Party solely in its regulatory capacity, or a decree, order, or judgment, standing alone; and

(ii) an administrative or judicial consent decree or order,

Shall not be considered a written agreement.

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

(i)

(A) With respect to Japan: a natural person who is a national of Japan and who is not also a national of the State of Israel; and

(B) With respect to the State of Israel: a natural person who is a national or permanent resident of the State of Israel and who is not also a national of Japan; or

(ii) An enterprise of that Contracting Party, that seeks to make, is making or has made investments in the Territory of the other Contracting Party;

(iii) Notwithstanding subparagraph (c)(i)(A), a natural person who is a national of Japan and who is also a permanent resident of the State of Israel shall not be a claimant;

(d) The term "enterprise" means any legal person or any other entity duly constituted or organized under the applicable laws and regulations, whether or not for profit, and whether private or government owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association, organization or company;

(e) The term "enterprise of a Contracting Party" means an enterprise:

(i) Duly constituted or organized under the applicable laws and regulations of that Contracting Party; and

(ii) Carrying out substantial business activities in the Territory of the Contracting Party;

(f) The term "investment activities" means establishment, acquisition, expansion, operation, management, maintenance, use, enjoyment and sale or other disposal of investments;

(g) The term "Territory" means:

(i) With respect to Japan: the territory of Japan, and the exclusive economic zone and the continental shelf with respect to which Japan exercises sovereign rights or jurisdiction in accordance with international law; and

(ii) With respect to the State of Israel: the territory of the State of Israel including the territorial sea as well as the continental shelf and the exclusive economic zone, over which the State of Israel exercises sovereignty, sovereign rights or jurisdiction in accordance with international law and the laws of the State of Israel;

(h) The term "existing" means being in effect on the date of entry into force of this Agreement;

(i) The term "freely usable currency" means freely usable currency as defined under the Articles of Agreement of the International Monetary Fund;

(j) The term "the WTO Agreement" means the Marrakesh Agreement Establishing the World Trade Organization, done at Marrakesh, April 15, 1994;

- (k) The term "the TRIPS Agreement" means the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement;
- (l) The term "claimant" means an investor of a Contracting Party that is a party to an investment dispute with the other Contracting Party;
- (m) The term "disputing party" means either the claimant or the respondent;
- (n) The term "disputing parties" means the claimant and the respondent;
- (o) The term "ICSID" means the International Center for Settlement of Investment Disputes;
- (p) The term "ICSID Additional Facility Rules" means the Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Center for Settlement of Investment Disputes;
- (q) The term "ICSID Convention" means the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington, March 18, 1965;
- (r) The term "New York Convention" means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, June 10, 1958;
- (s) The term "respondent" means the Contracting Party that is a party to an investment dispute; and
- (t) The term "UNCITRAL Arbitration Rules" means the Arbitration Rules of the United Nations Commission on International Trade Law, as revised in 2010.

## **Article 2. National Treatment**

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

## **Article 3. Most-favored-nation Treatment**

1. Each Contracting Party shall in its Territory accord to investors of the other Contracting Party and to their investments treatment no less favorable than the treatment it accords in like circumstances to investors of a non- Contracting Party and to their investments with respect to investment activities.
2. For greater certainty, the treatment referred to in this Article does not encompass definitions and international dispute settlement procedures or mechanisms under any international agreement or any written agreement between a Contracting Party and an investor of a non- Contracting Party or its investment that is an enterprise in the Territory of the former Contracting Party.
3. The provisions of paragraph 1 shall not be construed so as to oblige a Contracting Party to extend to the investors of the other Contracting Party and to their investments the benefits of any treatment under any bilateral or multilateral international agreement which was in force prior to the date of entry into force of this Agreement.
4. The provisions of paragraph 1 shall not be construed so as to oblige a Contracting Party to extend to investors of the other Contracting Party and to their investments any preferential treatment by virtue of any existing or future customs union, economic or monetary union, free trade area or similar international agreements to which the former Contracting Party is a party or may become a party in the future.

## **Article 4. General Treatment**

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

## **Article 5. Access to the Courts of Justice**

Each Contracting Party shall in its Territory accord to investors of the other Contracting Party treatment no less favorable 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 defense 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 an investment or investment activities of an investor of the other Contracting Party in its Territory:

- (a) To achieve a given level or percentage of domestic content;
- (b) To purchase, use or accord a preference to goods produced or services provided in its Territory, or to purchase goods or services from a natural person or an enterprise in its Territory;
- (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 an investment of the investor;
- (d) To restrict sales of goods or services in its Territory that an investment of the investor produces or provides by relating such sales in any way to the volume or value of its exports or foreign exchange earnings;
- (e) To restrict the exportation or sale for export;
- (f) To export a given level or percentage of goods or services;
- (g) To transfer technology, a production process or other proprietary knowledge to a natural person or an enterprise in its Territory, except those undertaken in a manner not inconsistent with the TRIPS Agreement;
- (h) To adopt:
  - (i) A given rate or amount of royalty under a license contract; or
  - (ii) A given duration of the term of a license contract,

In regard to any license contract freely entered into between the investor and a natural person or an enterprise in its Territory, whether it has been entered into or not, provided that the requirement is imposed or the commitment or undertaking is enforced by an exercise of governmental authority of the Contracting Party;

Note: A "license contract" referred to in this subparagraph means any license contract concerning transfer of technology, a production process, or other proprietary knowledge.

- (i) To locate the headquarters of the investor for a specific region or the world market in its Territory;
- (j) To hire a given number or percentage of its nationals;
- (k) To achieve a given level or value of research and development in its Territory; or
- (l) 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 its Territory.

2. The provisions of paragraph 1 do not preclude either Contracting Party from conditioning the receipt or continued receipt of an advantage, in connection with an investment or investment activities of an investor of the other Contracting Party in its Territory, on compliance with:

- (a) Any requirement other than the requirements set forth in subparagraphs 1(a) through 1(e);
- (b) A requirement to locate production, supply or acquire a service, train or employ workers, construct or expand particular facilities, or carry out research and development, in its Territory; or
- (c) The requirements set forth in subparagraphs 1(a) and 1(b), when the requirements relating to the content of goods necessary to qualify for preferential tariffs or preferential quotas are imposed by an importing Contracting Party.

3. Subparagraphs 1(g) and 1(h) shall not apply when the requirement is imposed or the commitment or undertaking is enforced by a court of justice, administrative tribunal or competition authority to remedy an alleged violation of competition laws.

4. This Article does not preclude enforcement of any commitment, undertaking or requirement between private parties, where a Contracting Party did not impose or require the commitment, undertaking or requirement.

## **Article 7. Senior Management and Board of Directors**

1. Neither Contracting Party may require that an enterprise of that Contracting Party that is an investment of an investor of the other Contracting Party appoint to senior management positions, or as senior executives, a natural person of any particular nationality.

2. Without prejudice to paragraph 1, a Contracting Party may require that a majority or less of the board of directors, or any committee thereof, of an enterprise of that Contracting Party that is an investment of an investor of the other Contracting Party be of a particular nationality, or a resident in the Territory of the former Contracting Party, provided that:

(a) The requirement does not materially impair the ability of the investor to exercise control over its investment; and

(b) The nationality of members of the board or committee required thereunder is not of any non- Contracting Party which does not maintain diplomatic relations with the latter Contracting Party.

## **Article 8. Non-conforming Measures**

1. Articles 2, 3, 6 and 7 shall not apply to:

(a) Any existing non-conforming measure that is maintained by the central government of a Contracting Party, as set out in the Schedule of each Contracting Party in Annex I;

(b) Any existing non-conforming measure that is maintained by a local government of a Contracting Party;

(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 at the date of the entry into force of this Agreement, with Articles 2, 3, 6 and 7.

2. Articles 2, 3, 6 and 7 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 upon request by the other Contracting Party, as soon as possible thereafter, provide characteristics of the measure to the other Contracting Party and hold discussions in good faith with the other Contracting Party with a view to achieving mutual satisfaction.

5. Each Contracting Party recognizes the importance of reviewing from time to time the non-conforming measures specified in its Schedules in Annexes I and II exploring the possibility for the reduction or elimination of the non-conforming measures.

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

8. The Contracting Parties confirm their understanding that, when a new sector, which does not exist at the time of the entry into force of this Agreement, emerges in a Contracting Party after the entry into force of this Agreement and that Contracting Party, therefore, wishes to amend the Annexes to this Agreement, the Contracting Parties shall, upon request by that Contracting Party, enter immediately into discussion with a view to amending the Annexes.

9. When considering an amendment to the Annexes to this Agreement, in accordance with paragraph 3 of Article 28, the Contracting Parties shall take into account the effect of the amendment with regard to investments of investors of the Contracting Parties. In the case of the absence of such effect, the Contracting Parties will enter immediately into discussions with a view to amending the Annexes.

10. The Contracting Parties confirm their understanding that any requirement for nationality or residency imposed or enforced through non-discriminatory application of their laws with regard to junior or middle-level employees shall not be regarded as a non-conforming measure to Article 2, 3 or 7.

11. The Contracting Parties confirm their understanding that this Agreement does not apply to immigration or migration matters, to measures that regulate the entry of natural persons of a Contracting Party into, or their temporary stay in, the Territory of the other Contracting Party, or to movement of natural persons.

## **Article 9. Transparency**

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

2. 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.

3. Paragraphs 1 and 2 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 10. Special Formalities and Information Requirements**

1. Nothing in Article 2 shall 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 Territory, such as compliance with registration requirements or requirements that investors be residents of the former Contracting Party, provided that such special formalities do not impair the substance of the rights of such investors under this Agreement.

2. Notwithstanding Articles 2 and 3, a Contracting Party may require an investor of the other Contracting Party or its investments to provide information concerning its investments solely for informational or statistical purposes. The Contracting Party shall protect such information that is confidential from any disclosure that would prejudice the competitive position of the investor of the latter Contracting Party or its investments. Nothing in this paragraph shall be construed so as to prevent a Contracting Party from otherwise obtaining or disclosing information in connection with the equitable and good-faith application of its law.

## **Article 11. Expropriation and Compensation**

1. Neither Contracting Party shall expropriate or nationalize an investment in its Territory of an investor of the other Contracting Party or take any measure equivalent to expropriation or nationalization (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 in accordance with paragraphs 2, 3 and 4;

(d) In accordance with procedures established in national legislation of either Contracting Party and fundamental internationally recognized rules; and

(e) Provided that the investors affected have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Contracting Party, of the legality of the expropriation and of the valuation of their investment, in accordance with the principles set out in this Article.

2. The compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation was publicly announced or immediately before 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 accrued from the date of expropriation until the date of payment and shall be effectively realizable and freely transferable.

4. Payments shall be made in a freely usable currency, and the compensation paid shall include interest, at a commercially

reasonable rate for that currency, accrued from the date of expropriation until the date of payment.

5. This Article does not apply to authorization of a Contracting Party for use of intellectual property rights in accordance with the TRIPS Agreement.

## **Article 12. Compensation for Losses or Damages**

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 Territory of the former Contracting Party due to armed conflict or a state of emergency such as a revolution, insurrection, civil disturbance or any other similar event in the Territory of that former Contracting Party, treatment, as regards restitution, indemnification, compensation or any other settlement, that is no less favorable than that which it accords to its own investors or to investors of a non- Contracting Party, whichever is more favorable to the investors of the other Contracting Party.

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

3. Neither Contracting Party shall be derogated from its obligation under paragraph 1 by reason of its measures taken pursuant to paragraph 2 of Article 15.

## **Article 13. Subrogation**

1. If a Contracting Party or its designated agency makes a payment to an investor of the Contracting Party pursuant to an indemnity, guarantee or insurance contract pertaining to an investment of that investor within the Territory of the other Contracting Party, that other Contracting Party shall recognize:

(a) The assignment, to the former Contracting Party or its designated agency, of any right or claim of the investor in respect of such investment, that formed the basis of such payment; and

(b) The right of the former Contracting Party or its designated agency to exercise by virtue of subrogation such right or claim to the same extent as the original right or claim of the investor.

2. The former Contracting Party or its designated agency shall be entitled in all circumstances to:

(a) The same treatment in respect of the rights and claims acquired by it by virtue of the assignment referred to in paragraph 1; and

(b) The same payments due pursuant to those rights and claims,

As the investor referred to in paragraph 1 was entitled to receive by virtue of this Agreement in respect of the investment.

## **Article 14. Transfers**

1. Each Contracting Party shall allow all transfers relating to investments in its Territory of an investor of the other Contracting Party to be made freely into and out of its Territory 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 or 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 abroad who work in connection with investments in the Territory of the former Contracting Party;

(f) Payments made in accordance with Articles 11 and 12; and

(g) Payments arising out of a dispute.

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, futures, options or derivatives;
- (c) Criminal or penal offenses;
- (d) Reporting or record keeping of transfers of currency or other monetary instruments when necessary to assist law enforcement or financial regulatory authorities; or
- (e) Ensuring compliance with orders or judgments in adjudicatory proceedings.

## **Article 15. 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 Territory 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;

Note: This exception includes environmental measures 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;
- (d) Imposed for the protection of national treasures of artistic, historic or archaeological value; or

- (e) Relating to the conservation of living or non-living exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

2. Subject to paragraph 3 of Article 12, nothing in this Agreement 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 international or non-international 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 16. Temporary Safeguard Measures**

1. A Contracting Party may adopt or maintain restrictive measures with regard to cross-border capital transactions as well as payments or transfers for transactions related to investments:

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

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



2. Restrictive measures referred to in paragraph 1 shall:

- (a) Be applied in such a manner that the other Contracting Party is treated no less favorably than any non-Contracting Party;
- (b) Be consistent with the Articles of Agreement of the International Monetary Fund;
- (c) Not exceed those necessary to deal with the circumstances set out in paragraph 1;
- (d) Be temporary and be phased out progressively as the situation specified in paragraph 1 improves;
- (e) Be promptly notified to the other Contracting Party; and
- (f) Avoid unnecessary damages to the commercial, economic and financial interests of the other Contracting Party.

3. The Contracting Party which has adopted any measures under paragraph 1 shall, upon request, commence consultations with the other Contracting Party in order to review the restrictions adopted by it.

## **Article 17. 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 18. Intellectual Property Rights**

1. The Contracting Parties recognize their rights and obligations under the TRIPS Agreement, 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 laws and regulations, take appropriate measures to remove the factors which are recognized in the consultation 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 any existing or future bilateral or multilateral agreements in respect of protection of intellectual property rights, to which the former Contracting Party is a party, provided that the former Contracting Party complies with the TRIPS Agreement.

## **Article 19. Taxation Measures**

1. Nothing in this Section shall impose obligations with respect to taxation measures except as expressly provided in paragraph 3.

2. Nothing in this Agreement shall affect the rights and obligations of either Contracting Party under any 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 4, 5, 9 and 11 shall apply to taxation measures.

## **Article 20. Health, Safety and Environmental Measures and Labor Standards**

Each Contracting Party recognizes that it is inappropriate to encourage investment activities of investors of the other Contracting Party and of a non-Contracting Party by relaxing its domestic health, safety, environmental and labor standards legislation.

## **Article 21. 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 such other Contracting Party and to investments of that investor if persons of a non- Contracting Party own or control the enterprise 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 or a person of 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. For the purpose of this Article, an enterprise is:

(a) "owned" by an investor if more than 50 percent of the equity interest in it is beneficially 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 22. Non Derogation**

Nothing in this Agreement shall be construed so as to derogate from:

(a) Laws and regulations, administrative practices or procedures, or administrative or judicial decisions of either Contracting Party;

(b) Obligations under the international agreements which are in force between the Contracting Parties; or

(c) Obligations which either Contracting Party may have entered into with regard to investments made by an investor of the other Contracting Party,

That entitle investments and investment activities of investors of the Contracting Parties to treatment more favorable than that accorded by this Agreement.

## **Section II. Dispute Settlement**

### **Article 23. Settlement of Dispute between the Contracting Parties**

1. Each Contracting Party shall afford adequate opportunity for consultation, through diplomatic channels, regarding any dispute with the other Contracting Party concerning the interpretation or application of this Agreement.

2. Any dispute between the Contracting Parties as to the interpretation and application of this Agreement, not satisfactorily adjusted by diplomacy in accordance with paragraph 1 within a period of six months from notification of the dispute, shall upon request by either Contracting Party be referred for decision to an arbitration board.

3. Unless otherwise provided for in this Article, or in the absence of an agreement between the Contracting Parties to the contrary, the UNCITRAL Arbitration Rules shall apply mutatis mutandis to the proceedings of the arbitration board. However, these rules may be modified by the Contracting Parties or modified by the arbitrators appointed pursuant to paragraph 4, provided that both Contracting Parties agree to the modification. The arbitration board may, for its part, determine its own rules and procedures.

4. Within 60 days from the date of receipt by either Contracting Party from the other Contracting Party of a note requesting arbitration of the dispute, each disputing party shall appoint an arbitrator. The two arbitrators shall select a third arbitrator who, upon approval by both Contracting Parties, shall be appointed as the Chairperson, provided that the third arbitrator shall not be a national of either Contracting Party. The Chairperson shall be appointed within 60 days from the date of appointment of the other two arbitrators. All arbitrators shall be nationals of States having diplomatic relations with both Contracting Parties. The UNCITRAL Arbitration Rules applicable to appointing members of three-member panels shall apply mutatis mutandis to other matters relating to the appointment of the arbitrators of the arbitration board provided that the appointing authority referenced in those rules shall be the Secretary-General of the Permanent Court of Arbitration at The Hague. If the Secretary-General is a national of either Contracting Party or otherwise prevented from discharging the said function, the Deputy Secretary- General shall be invited to make the appointment.

5. Unless otherwise agreed by the Contracting Parties, all submissions of documents shall be made and all hearings shall be completed within a period of 180 days from the date of selection of the third arbitrator. The arbitration board shall decide the dispute by a majority of votes in accordance with this Agreement and the rules of international law applicable to the

subject matter, within 60 days from the date of the final submissions of documents or the date of the closing of the hearings, whichever is the later. Such decision shall be final and binding.

6. Each Contracting Party shall bear the cost of the arbitrator of its choice and its representation in the arbitral proceedings. The cost of the Chairperson 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 24. Settlement of Investment Disputes between a Contracting Party and an Investor of the other Contracting Party**

1. In the event of an investment dispute between the claimant and the respondent, they should initially seek to resolve the dispute through consultation and negotiation, which may include the use of non-binding, third-party procedures.

2. In the event that an investment dispute cannot be settled by consultation and negotiation within six months from the date on which the claimant requested in writing the respondent for consultation and negotiation, the claimant may submit to arbitration under this Article a claim:

- (a) That the respondent has breached an obligation under Section I, except an obligation under Articles 9, 18 and 20; and
- (b) That the claimant has incurred loss or damage by reason of, or arising out of, that breach.

3. At least 90 days before submitting any claim to arbitration under this Article, a claimant shall deliver to the respondent a written notice of its intention to submit the claim to arbitration (hereinafter referred to as "notice of intent"). The notice of intent shall specify:

- (a) The name and address of the claimant;
- (b) For each claim, the provision of Section I alleged to have been breached and any other relevant provisions;
- (c) The legal and factual basis for each claim; and
- (d) The relief sought and the approximate amount of damages claimed.

4. Provided that six months have elapsed since the claimant requested in writing the respondent for consultation and negotiation, the claimant may submit a claim referred to in paragraph 2 to the arbitration:

- (a) Under the ICSID Convention, provided that both Contracting Parties are parties to the ICSID Convention;
- (b) Under the ICSID Additional Facility Rules, provided that either Contracting Party, but not both, is a party to the ICSID Convention;
- (c) Under the UNCITRAL Arbitration Rules; or
- (d) If the disputing parties agree, under any other arbitration institution or arbitration rules.

5. A claim shall be deemed submitted to arbitration under this Article when the claimant's notice of or request for arbitration:

- (a) Referred to in paragraph 1 of Article 36 of the ICSID Convention is received by the Secretary- General of ICSID;
- (b) Referred to in Article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretary-General of ICSID;
- (c) Referred to Article 3 of the UNCITRAL Arbitration Rules, together with the statement of claim referred to in Article 20 of the UNCITRAL Arbitration Rules, is received by the respondent; or
- (d) Under any other arbitration institution or arbitration rules selected under subparagraph 4(d) is received by the respondent, unless otherwise specified by such institution or in such rules.

6. (a) Each Contracting Party hereby consents to the submission of a claim to arbitration under this Article in accordance with this Agreement.

(b) The consent under subparagraph (a) and the submission of a claim to arbitration under this Article shall satisfy the requirements of:

- (i) Chapter II of the ICSID Convention or the ICSID Additional Facility Rules for written consent of the parties; and

(ii) Article II of the New York Convention for an agreement in writing.

7. Notwithstanding paragraph 6, no claim may be submitted to arbitration under this Article if more than three years have elapsed from the date on which the claimant first acquired, or should have first acquired, knowledge of the breach alleged under paragraph 2 and knowledge that the claimant has incurred loss or damage.

8. No claim may be submitted to arbitration under this Article unless the claimant:

(a) Consents in writing to arbitration in accordance with the procedures set out in this Article; and

(b) Waives in writing any right to initiate or continue before any administrative tribunal or court of justice under the law of either Contracting Party, or other dispute settlement procedures, any proceedings with respect to any measure alleged to constitute a breach referred to in subparagraph 2(a) before any judgment or award has been delivered on the subject matter of the dispute under the abovementioned mechanisms.

9. The waiver provided pursuant to subparagraph 8(b) shall cease to apply where the arbitral tribunal rejects the claim on the basis of a failure to meet the requirements of paragraph 3, 4, 7 or 8, or on any other procedural or jurisdictional grounds.

10. Notwithstanding subparagraph 8(b), the claimant may initiate or continue an action that seeks interim injunctive relief that does not involve the payment of monetary damages before an administrative tribunal or court of justice under the law of the respondent.

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

12. In an arbitration under this Article, the respondent shall not assert, as a defense, counterclaim, right of setoff or otherwise, that the claimant has received or will receive indemnification or other compensation for all or part of the alleged damages pursuant to an insurance or guarantee contract.

13. The arbitral tribunal may award only:

(a) A judgment whether or not there has been a breach by the respondent of any obligation under Section I with respect to the claimant 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 respondent may pay monetary damages and any applicable interest, in lieu of restitution.

Without prejudice to the competence of the tribunal referred to in subparagraph (a), the arbitral tribunal shall not award a decision whether or not there has been a breach by the respondent of any obligation under the legislation of the respondent with respect to the claimant and its investments.

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

14. The respondent 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 laws and regulations of either Contracting Party;

(c) Information which shall be withheld pursuant to the relevant arbitration rules;

(d) Information the disclosure of which would impede law enforcement; and

(e) Information the disclosure of which it considers to be contrary to its essential security interests.

15. Unless the disputing parties agree otherwise, the place of arbitration shall be in a country that is a party to the New York Convention.

16. 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 25. Service of Documents**

1. Notices and other documents relating to arbitration under this Section shall be served on a Contracting Party by delivery to:

(a) With respect to Japan, Economic Affairs Bureau, the Ministry of Foreign Affairs; and

(b) With respect to the State of Israel, International Affairs Department, the Ministry of Finance or its successors.

2. A Contracting Party shall promptly make publicly available and notify to the other Contracting Party any change to the name of the authority referred to in paragraph 1.

3. Each Contracting Party shall make publicly available the address of its authority referred to in paragraphs 1 and 2.

## **Section III. Joint Committee**

### **Article 26. 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 8 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 8 for the purpose of encouraging favorable 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;

(e) To consider any issues raised by either Contracting Party concerning investment agreements; and

(f) 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.

## **Section IV. Final Provisions**

### **Article 27. Headings**

The headings of the Sections and 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. The Contracting Parties shall notify each other, in writing through diplomatic channels, of the completion of their

respective internal procedures necessary for the entry into force of this Agreement. This Agreement shall enter into force on the 30th day after the latter of the dates of receipt of the notifications. It shall remain in force for a period of 10 years after its entry into force and shall continue in force unless terminated as provided for in paragraph 2.

2. A Contracting Party may, by giving one year's advance notice in writing to the other Contracting Party, through diplomatic channels, terminate this Agreement at the end of the initial 10 year period or at any time thereafter.

3. Upon the request of either Contracting Party, the Contracting Parties may agree on any amendment to this Agreement. Any amendment shall be approved by the Contracting Parties in accordance with their respective internal procedures and shall enter into force on such date as the Contracting Parties may agree, and shall thereafter constitute an integral part of this Agreement.

4. This Agreement shall also apply to all investments of investors of either Contracting Party made in the Territory of the other Contracting Party in accordance with the laws and regulations of that other Contracting Party prior to the entry into force of this Agreement.

5. In respect of investments made prior to the date of termination of this Agreement, the provisions of this Agreement shall continue to be effective for a period of 10 years from the date of termination of this Agreement.

6. This Agreement shall not apply to disputes arising out of events which occurred prior to its entry into force.

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

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

DONE, in duplicate at Tokyo, on this first day of February, 2017 in the English language.

FOR THE GOVERNMENT OF JAPAN

ON BEHALF OF JAPAN:

Fumio Kishida

FOR THE GOVERNMENT OF THE STATE OF ISRAEL

ON BEHALF OF THE STATE OF ISRAEL:

Kahlon M.

## **Annex I. Existing non-conforming measures referred to in subparagraph 1(a) of article 8**

1. The Schedule of a Contracting Party sets out, pursuant to subparagraph 1(a) of Article 8, its existing measures that are not subject to some or all of the obligations imposed by:

- (a) Article 2;
- (b) Article 3;
- (c) Article 6; or
- (d) Article 7.

2. Each Schedule entry sets out the following elements:

- (a) "Sector" refers to the sector for which the entry is made;
- (b) "Sub-Sector", where referenced, refers to the specific sub-sector for which the entry is made;
- (c) "Industry Classification", where referenced, and only for transparency purposes, refers to the activity covered by the non-conforming measure, according to domestic or international industry classification codes;

(d) "Obligations Concerned" specifies the obligations referred to in paragraph 1 that, pursuant to subparagraph 1(a) of Article 8, do not apply to the listed measure(s);

(e) "Measures" identifies the laws, regulations or other measures for which the entry is made. 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 the non-conforming measure or provides a general non-binding description of the measure for which the entry is made.

3. In the interpretation of an entry, all elements of the entry shall be considered. An entry shall be interpreted in the light of the relevant provisions of this Agreement against which the entry is taken, and the "Measures" element shall prevail over all the other elements.

4. For the purposes of this Annex, the term "JSIC" means Japan Standard Industrial Classification set out by the Ministry of Internal Affairs and Communications, and revised on October 30, 2013.

## **Schedule of the State of Israel**

### **1.**

Sector: Veterinary Medicine Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Measures: Veterinarians Law, 1991, Articles 5 and 17 Description: 1. Nationality or permanent residency of the State of Israel (hereinafter referred to in this Schedule as "Israel") is required for licensure as a veterinarian. 2. Foreign veterinarians, who are not nationals or permanent residents of Israel, shall obtain a permit from the Ministry of Agriculture for advising, teaching and research in veterinary medicine.

### **2.**

Sector: Transportation Sub-Sector: Motor Vehicle Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Measures: Supervision Order on Commodities and Services (Imports of Motor Vehicle and Services to Motor Vehicle), 1978, Article 3 Law of Licensing of Services and Professions in the Motor Vehicle Sector, 2016, Articles 2, 20, 41, 42, 44, 68, 97, 98, 136, 143 and 149 Companies Law, 1999, Article 1 Description: 1. License is required in order to commercially import motor vehicles. The director general and at least one interested party as defined in Article 1 of the Companies Law, 1999, of a corporation applying for licensure, shall be nationals or permanent residents of Israel. 2. License is required in order to manufacture and market motor vehicles or to trade in motor vehicles and the license holder must be: (a) a national or permanent resident of Israel who is a sole proprietor; or (b) a registered corporation in Israel whose director general and at least one interested party as defined in Article 1 of the Companies Law, 1999, are nationals or permanent residents of Israel. License is required in order to brokerage in motor vehicle private import and the license holder must be: (a) a national or permanent resident of Israel who is a sole proprietor; or (b) an employee of a registered corporation in Israel whose director general and at least one interested party as defined in Article 1 of the Companies Law, 1999, are nationals or permanent residents of Israel. 4. License is required in order to manufacture traffic products, as defined in Article 2 of the Law of Licensing of Services and Professions in the Motor Vehicle Sector, 2016, and the license holder must be: (a) a sole proprietor; or (b) a registered corporation in Israel the director general and at least one interested party as defined in Article 1 of the Companies Law, 1999, of which are nationals or permanent residents of Israel. 5. Israel may determine that certain traffic products, as defined in Article 97 of the Law of Licensing of Services and Professions in the Motor Vehicle Sector, 2016, are made for marketing in the Israeli market alone. 6. Nationality or permanent residency of Israel is required for licensure as a motor vehicle appraiser. 7. Nationality or permanent residency of Israel is required for licensure as a professional manager of a motor vehicle service center (garage) and at least one licensed professional manager is required to be available on the premises in order to operate a motor vehicle garage. Note 1: "Traffic Product" as defined in Article 2 of the Law of Licensing of Services and Professions in the Motor Vehicle Sector, 2016, is an accessory, a part, system of parts, an appliance with the exception of an appliance that is a work tool used by garages or manufacturers only, a device or substance that is a liquid, solid or gas, that is used or designed to be used for assembly, maintenance or the proper operation of a motor vehicle or for ensuring the safety of a motor vehicle or for ensuring user safety or for his convenience. Note 2: For the purposes of this Schedule, it is understood that director general is an equivalent position to chief executive officer. Note 3: For the purposes of this Schedule, "interested party", as defined in Article 1 of the Companies Law, 1999, is: (a) a substantial shareholder; (b) a person with the power to appoint one or more members of the board of directors or the director general; or (c) a person who serves in the enterprise as a member of the board of directors or as a director general.

### 3.

Sector: Transportation Sub-Sector: Driving Licenses and Road Transport Services, including Passenger Transportation Services and Motor Vehicle Mechanics Safety Officer Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Measures: Road Transport Regulations, 1961, Articles 175-190, 213-213H, 216, 221, 221A, 247, 251, 531, 567, 567B and 582 Road Transport Ordinance, Article 14 Supervision Order on Commodities and Services (Purchase, Installation and Maintenance of Taxi Meters), 1984 Companies Law, 1999, Article 1 Description: 1. Nationality or permanent residency of Israel is required to obtain certain types of driving licenses, in accordance with Articles 175-185, 189 and 190 of Road Transport Regulations, 1961. 2. Nationality or permanent residency of Israel is required for licensure as a driving instructor. 3. Nationality or permanent residency of Israel is required for licensure as a taxi operator. Nationality or permanent residency of Israel is required for an individual working in installation or maintenance of taxi meters and an enterprise operating in installation or maintenance of taxi meters must have at least one interested party, as defined in Article 1 of the Companies Law, 1999, who is a national or permanent resident of Israel. 5. Nationality or permanent residency of Israel is required for authorization to work as a motor vehicle mechanics safety officer.

### 4.

Sector: Transportation Sub-Sector: Road Haulage Services Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Measures: Freight Services Regulations, 2001, Articles 2 and 24 Law of Transport Services, 1997 Description: 1. Individuals applying for a haulage license and the operator of the haulage shall be nationals or permanent residents of Israel. 2. The professional manager of haulage shall be a national or permanent resident of Israel.

### 5.

Sector: Transportation Sub-Sector: Maritime Transport Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Measures: Shipping Law (Sea Vessel), 1960 Ports Ordinance, 1971 Ports Regulations (Safety of Navigation), 1982 Shipping Law (Seafarers), 1973 Maritime Regulations (Seafarers), 2002 Maritime Regulations (Seafarers) (Staffing of Vessels and Tugboats with Israeli Seafarers), 2016 Shipping and Ports Authority Law, 2004 Shipping Law (Foreign Sea Vessel under Israeli Control), 2005 Description: 1. In order to register in the Israeli vessel registry and carry an Israeli flag, a majority ownership of a vessel by a national of Israel or an enterprise incorporated in Israel or by Israel is required ("Israeli Vessel"). 2. A foreign vessel that is controlled by a national or permanent resident of Israel or by an enterprise incorporated in Israel shall be registered in Israel in accordance with Shipping Law (Foreign Sea Vessel under Israeli Control), 2005 ("Foreign Vessel"). 3. Israeli seafarers are required in order to operate an Israeli vessel or a foreign vessel referred to in paragraph 2. 4. Seafarer certificate requires nationality of Israel. Providing a certificate to non-residents is subject to prior approval by the Administrator of Shipping and Ports.

### 6.

Sector: Transportation Sub-Sector: Air Transport and Air Cabotage Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Measures: Air Navigation Law, 2011 Aviation Services Licensing Law, 1963 Airports Authority Law, 1977 Air Navigation Regulations (Operating of Aircraft and Rules of Flight), 1981 Description: 1. A license to operate an Israeli airline or aircraft is given to: (a) a permanent resident of Israel with no main business operations outside of Israel; (b) a national of Israel with a main business operations in Israel; or (c) an enterprise incorporated in Israel which is directly controlled by a national or permanent resident of Israel or by an enterprise whose control and ownership is in accordance with an international aviation treaty that Israel is a party to. 2. Air cabotage is operated by Israeli aircrafts only.

### 7.

Sector: Electronic Signature Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Measures: Electronic Signature Law, 2001, Articles 11 and 22 Description: 1. Registration as a "foreign issuer of electronic certificate" may be subject to additional conditions as set out in the Electronic Signature Law, 2001. 2. Registration as an issuer of electronic certificate other than a "foreign issuer of electronic certificate" requires to be a national or permanent resident of Israel or an enterprise incorporated in Israel and having its main operations and center of business in Israel.

### 8.



Sector: Tourism Sub-Sector: Industry Classification: Obligations Prohibition of Performance Concerned: Requirements (Article 6) Measures: Tourism Services Regulation (Tour Guides), 1967, Article 2 Tourism Services Law, 1976, Article 3 Description: Nationality or permanent residency of Israel is required for licensure as a tour guide.

## **9.**

Sector: Agriculture Sub-Sector: Fishery Industry Classification: Obligations National Treatment (Article 2) Concerned: Measures: Fishery Regulation, 1937, Articles 2-3 Description: Issuance, continuation and amendment of fishery license require authorization by the Ministry of Agriculture. Israel reserves the right not to issue a fishery license for foreign nationals or enterprises under Fishery Regulation, 1937.

## **10.**

Sector: Communications Sub-Sector: Domestic Fixed Line Services, International Communications Services and Radio and Mobile Telephone Services Industry Classification: Obligations National Treatment (Article 2) Concerned: Senior Management and Board of Directors (Article 7) Measures: Communications Regulations (Telecommunications and Broadcasting) (Procedures and Conditions for Obtaining a General License for the Provision of Domestic Fixed-Line Telecommunication Services), 2000, Article 11 Communication Law (Telecommunications and Broadcasting), 1982, Articles 4-4H and 6-7 Communications Regulations (Telecommunications and Broadcasting) (Procedures and Conditions for Obtaining a Unified General License), 2010, Article 10 Description: 1. In an enterprise supplying domestic fixed line services: (a) foreign holding is limited to 80 percent; (b) 75 percent of the members of the board of directors shall be nationals of Israel who are residents of Israel; and (c) the director general shall be a national of Israel who is a resident of Israel. 2. In an enterprise supplying international communications services: (a) foreign holding is limited to 74 percent; (b) majority of the members of the board of directors shall be nationals of Israel who are residents of Israel; (c) the director general shall be a national of Israel who is a resident of Israel; and (d) the enterprise shall be incorporated in Israel and have its main operations and center of business in Israel. 3. In an enterprise supplying radio and mobile telephone services: (a) foreign holding is limited to 80 percent; (b) majority of the members of the board of directors shall be nationals of Israel who are residents of Israel; and (c) the enterprise shall be incorporated in Israel and have its main operations and center of business in Israel.

## **11.**

Sector: Communications Sub-Sector: Broadcasting Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Measures: Broadcasting Authority Law, 1965, Articles 44C-44F Communication Law (Telecommunications and Broadcasting), 1982, Articles 4-4H and 6-7 Communications Regulations (Terms and Conditions for Satellite Broadcasting License), 1998, Articles 13, 20 and 21 Second Authority for Television and Radio Law, 1990, Articles 41 and 59 Public Broadcasting Law, 2014, Article 64 Description: 1. In an enterprise that holds a license for cable broadcasting at least 26 percent of the means of control in the enterprise shall be held by nationals of Israel who are residents of Israel. The license shall not be granted to an enterprise in which a foreign government holds shares, but the Minister of Communications may authorize an indirect holding in the licensee of up to 10 percent by such an enterprise. 2. In an enterprise that holds a license for satellite broadcasting: (a) at least 26 percent of the means of control in the enterprise shall be held by nationals of Israel who are residents of Israel; (b) its main operations and center of business are located in Israel; (c) a majority of its members of the board of directors and any persons in equivalent positions shall be nationals of Israel who are residents of Israel; and (d) its director general or any persons in equivalent management position shall be a national of Israel who is a resident of Israel. 3. At least 51 percent of the means of control in a holder of a concession for operating commercial television broadcasting or regional radio broadcasting must be held by nationals of Israel who are residents of Israel. 4. In television broadcasting, including satellite and cable broadcasting, each broadcasting enterprise operating under license or concession is committed to spend a certain amount of its annual budget for local production, as defined in the legislation listed in the "Measures" element and to broadcast it.

## **12.**

Sector: Legal Services Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Measures: Bar Association Law, 1961, Articles 20, 42 and 98-98M Description: 1. A branch of a foreign law firm may be established in Israel only if it employs either at least one Israeli licensed lawyer or one foreign lawyer, as defined in the Bar Association Law, 1961, and subject to the conditions set forth therein. 2. Nationality, permanent residency or temporary residency of Israel is required for licensure as an Israeli lawyer.

## **13.**

Sector: Investigation Services Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Measures: Private Investigators and Security Services Law, 1972, Articles 4, 9-11 and 13 Description: 1. Nationality or permanent residency of Israel is required for licensure as a private investigator. 2. Ownership of an investigation enterprise may be held only by a licensed private investigator.

#### **14.**

Sector: Financial Services Sub-Sector: Tax Consultant, Customs Agent, Insurance, Non-Banking Credit Institutions, Acceptance of Deposits and Other Repayable Funds from the Public, Payment Services Industry Classification: Obligations National Treatment (Article 2) Concerned: Senior Management and Board of Directors (Article 7) Measures: Customs Agents Law, 1964, Article 4 Supervision of Financial Services Law (Consultancy, Marketing and Clearing for Pension), 2005, Articles 5 and 6 Regulation of Representation by Tax Consultants Law, 2005, Article 10 Supervision of Financial Services Law (Regulated Financial Services), 2016 Description: 1. Nationality or permanent residency of Israel is required for licensure as a tax consultant. 2. Nationality or permanent residency of Israel is required for licensure as a customs agent. 3. Nationality or permanent residency of Israel is required for licensure as a pension insurance consultant or agent. 4. Individual suppliers and individual licensees of financial services in the following sub-sectors shall be nationals or permanent residents of Israel and an enterprise which is a licensee of financial services in the following sub-sectors shall appoint at least one position holder who is a national or permanent resident of Israel: (a) non-banking credit services; (b) acceptance of deposits and other repayable funds from the public including keeping and management of financial assets; and (c) payment services including remittance and currency conversion. Note: For the purposes of this Schedule, except for entry No. 16, "position holder" is the director general, chief business officer, deputy director general, vice director general or any persons in equivalent positions, member of the board of directors or other officers who directly report to the director general, as defined in Article 1 of the Companies Law, 1999.

#### **15.**

Sector: Financial Services Sub-Sector: Settlement and Clearing Services Industry Classification: Obligations National Treatment (Article 2) Concerned: Measures: Securities Law, 1968 By-Laws of the Tel Aviv Stock Exchange Clearing House Ltd., Part One, Chapter 2, Article 2 Description: 1. Settlement and clearing services for the Tel Aviv Stock Exchange (TASE) must be supplied through an enterprise which is a member of TASE and incorporated in Israel. 2. Foreign TASE membership (remote membership) is possible when meeting relevant regulatory requirements. 3. Remote members of the TASE cannot supply settlement and clearing services for the TASE.

#### **16.**

Sector: Postal, Courier and Financial Services Sub-Sector: Industry Classification: Obligations Prohibition of Performance Concerned: Requirements (Article 6) Senior Management and Board of Directors (Article 7) Measures: Post Law, 1986, Articles 1-1H, 5A-5C and 88-88U Israel Postal Company Ltd. General License, 2015, Article 42 and Appendix c Description: Majority of the members of the board of directors and position holders as defined in Appendix c to Israel Postal Company Ltd. General License, 2015, in a licensee operating postal, courier and financial services under the Israel Postal Company Ltd. General License, 2015, shall be nationals of Israel who are residents of Israel and hold a security clearance.

#### **17.**

Sector: Land Survey Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Measures: Land Surveyors Regulations, 1982, Article 3 Survey Ordinance, 1929, Article 3 Description: Israeli nationality is required for licensure as a land surveyor.

#### **18.**

Sector: All Sub-Sector: Industry Classification: Obligations Senior Management and Board of Concerned: Directors (Article 7) Measures: Companies Law, 1999, Articles 239 and 240 Description: A public enterprise or an enterprise that has issued debt securities to the public (hereinafter referred to as "debenture enterprise") shall appoint on its board of directors at least two outside directors who are nationals or permanent residents of Israel. However, a public enterprise or a debenture enterprise whose shares or debt, or part of them, were offered to the public outside Israel, or that is registered in a stock exchange outside Israel, may appoint outside directors who are not nationals or permanent residents of Israel.

#### **19.**

Sector: All Sub-Sector: Industry Classification: Obligations Prohibition of Performance Concerned: Requirements (Article 6) Measures: Bankruptcy Ordinance, 1980 Companies Law, 1999, Articles 350- 351 Companies Ordinance, 1983 Description: 1. When an investor or an investment is declared bankrupt or insolvent and subject to debt restructuring proceedings, Israel may demand a transfer of technology, a production process or other proprietary knowledge to the extent necessary for the proceedings. 2. When an investor or an investment is party to a license contract, as referred to in subparagraph 1(h) of Article 6 of this Agreement, with an enterprise or individual which is declared bankrupt or insolvent and subject to debt restructuring proceedings, Israel may require the continuation of a duration of the license contract and the cancelation or rejection thereof.

## **20.**

Sector: All Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Measures: Law for Hazardous Substances, 1993 Law for the Prevention of Asbestos Hazards and Damaging Dust, 2011 Law of Environmental Treatment of Electrical and Electronic Equipment and Batteries, 2012 Water Law, 1959 Hazardous Substances Regulations (Import and Export of Hazardous Substances), 1994 Law for the Regulation of the Practice of Pest Control, 2016 Law for the Treatment of Packing Material, 2011 Description: 1. Nationality or permanent residency of Israel is required for hazardous substances handler permit. 2. A refuse disposal enterprise for environmental treatment of electrical and electronic equipment and batteries shall employ only nationals or permanent residents of Israel. 3. Nationality or permanent residency of Israel is required for licensure as a pest exterminator. 4. Nationality or permanent residency of Israel is required to obtain a permit for collection and treatment of asbestos. 5. At least one employee of an asbestos contractor, that performs dismantling and removal of asbestos, shall be a national or permanent resident of Israel. 6. Export of packaging material waste is limited to 20 percent of the recycling objective in accordance with the Law for the Treatment of Packing Material, 2011. 7. Obtainment of permit for export of hazardous substances requires authorization by the Ministry of Environmental Protection

## **21.**

Sector: Employment Contractors Services Sub-Sector: Building Cleaning Services Industry Classification: Obligations Senior Management and Board of Concerned: Directors (Article 7) Measures: Law of Employment of Workers by Private Employment Contractors, 1996 Companies Law, 1999, Article 1 Description: A private employment contractor enterprise for employment of workers in the building cleaning services shall appoint at least one position holder who is a national or permanent resident of Israel.

## **Schedule of Japan**

### **1.**

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 entry No. 8 in the Schedule of Japan in Annex II) Sub-Sector: Industry JSIC 01 Agriculture Classification: 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. Obligations National Treatment (Article 2) Concerned: 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 entry No. 8 in the Schedule of Japan in Annex II) in Japan.

### **2.**

Sector: Finance Sub-Sector: Banking Industry JSIC 622 Banks, except central Classification: bank JSIC 631 Financial institutions for small-businesses Obligations National Treatment (Article 2) Concerned: 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 JSIC 3511 Heat supply Classification: Obligations National Treatment (Article 2) Concerned: 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 the heat supply industry in Japan.

#### **4.**

Sector: Information and Communications Sub-Sector: Telecommunications Industry JSIC 3700 Head offices primarily Classification: engaged in managerial operations JSIC 3711 Regional telecommunications, except wired broadcast telephones JSIC 3731 Services incidental to telecommunications Obligations National Treatment (Article 2) Concerned: Senior Management and Board of Directors (Article 7) Measures: Law concerning Nippon Telegraph and Telephone Corporation, etc. (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 member of the board of directors 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 JSIC 3711 Regional Classification: telecommunications, except wired broadcast telephones JSIC 3712 Long-distance telecommunications JSIC 3719 Miscellaneous fixed telecommunications JSIC 3721 Mobile telecommunications JSIC 401 Services incidental to Internet Note: The activities covered by this entry 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). Obligations National Treatment (Article 2) Concerned: 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 JSIC 1653 Biological preparations Classification: Obligations National Treatment (Article 2) Concerned: 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 or some preparations similar to the aforementioned products, or blood products.

#### **7.**

Sector: Manufacturing Sub-Sector: Leather and Leather Products Manufacturing Industry JSIC 1189 Textile apparel and Classification: 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 and industrial leather products, except gloves and mittens JSIC 2031 Cut stock and findings for leather footwear JSIC 2041 Leather footwear JSIC 2051 Leather gloves and mittens JSIC 2061 Baggage JSIC 207 Handbags and small cases JSIC 2081 Fur skins JSIC 2099 Miscellaneous tanning leather products JSIC 3253 Sporting and athletic goods Note 1: The activities covered by this entry under JSIC 1189 or 3253 are limited to the activities related to leather and leather products manufacturing. Note 2: The activities covered by this entry under JSIC 1694 are limited to the activities related to animal glue (nikawa) and gelatine manufacturing. Obligations National Treatment (Article 2) Concerned: 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: Obligations National Treatment (Article 2) Concerned: Senior Management and Board of Directors (Article 7) 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 JSIC 05 Mining and quarrying of Classification: stone and gravel Obligations National Treatment (Article 2) Concerned: 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 JSIC 053 Crude petroleum and Classification: 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, except refrigerated warehousing JSIC 4721 Refrigerated warehousing JSIC 5331 Petroleum JSIC 6051 Gasoline stations JSIC 6052 Fuel stores, except gasoline stations JSIC 9299 Miscellaneous business services, n.e.c. Note 1: The activities covered by this entry under JSIC 1741, 1799, 4711, 4721 or 6052 are limited to those related to oil industry. Note 2: The activities covered by this entry under JSIC 9299 are limited to those related to liquefied petroleum gas industry. Obligations National Treatment (Article 2) Concerned 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 the oil industry in Japan. All organic chemicals such as ethylene, ethylene glycol and polycarbonates are outside the scope of the oil industry. Therefore, the prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investments in the manufacture of these products.

## **11.**

Sector: Security Guard Services Sub-Sector: Industry JSIC 923 Guard services Classification: Obligations National Treatment (Article 2) Concerned: 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.

## **12.**

Sector: Transport Sub-Sector: Air Transport Industry JSIC 4600 Head offices primarily Classification: engaged in managerial operations JSIC 4611 Air transport Obligations National Treatment (Article 2) Concerned: Most-Favored-Nation Treatment (Article 3) Senior Management and Board of Directors (Article 7) 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 one-third or more of the directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which one-third or more of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c). In the event that an air carrier becomes 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 a 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 2(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 that such air carrier or company becomes 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.

### 13.

Sector: Transport Sub-Sector: Air Transport Industry JSIC 4600 Head offices primarily Classification: engaged in managerial operations JSIC 4621 Aircraft service, except air transport Obligations National Treatment (Article 2) Concerned: Senior Management and Board of Directors (Article 7) 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 one-third or more of the directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which one-third or more of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c). In the event that a person conducting aerial work business becomes 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.

### 14.

Sector: Transport Sub-Sector: Air Transport (Registration of Aircraft in the National Register) Industry Classification: Obligations National Treatment (Article 2) Concerned: Senior Management and Board of Directors (Article 7) 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 one-third or more of the directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which one-third or more 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.

### 15.

Sector: Transport Sub-Sector: Freight Forwarding Business (excluding Freight Forwarding Business Using Air Transportation) Industry JSIC 4441 Collect-and-deliver Classification: freight transport JSIC 4821 Freight transport, except collect-and-deliver freight transport Obligations National Treatment (Article 2) Concerned: Most-Favored-Nation Treatment (Article 3) Senior Management and Board of Directors (Article 7) 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 permitted, 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 one-third or more of the directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which one-third or more of the voting rights are held by the natural persons or entities referred to in subparagraph (a), (b) or (c).

### 16.

Sector: Transport Sub-Sector: Freight Forwarding Business (only Freight Forwarding Business Using Air Transportation) Industry JSIC 4441 Collect-and-deliver Classification: freight transport JSIC 4821 Freight transport, except collect-and-deliver freight transport Obligations National Treatment (Article 2) Concerned: Most-Favored-Nation Treatment (Article 3) Senior Management and Board of Directors (Article 7) 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 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 one-third or more of the directors are composed of the natural persons or entities referred to in subparagraph (a), (b) or (c); or a legal person of which one-third or more 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 paragraph 1 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 permitted, or such permission or approval will be granted, on the basis of reciprocity.

## **17.**

Sector: Transport Sub-Sector: Railway Transport Industry JSIC 421 Railway transport Classification: JSIC 4851 Railway facilities services Obligations National Treatment (Article 2) Concerned: 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: 1. 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. 2. The manufacture of vehicles or parts and components for the railway transport industry is not included in railway transport industry. Therefore, the prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investments in the manufacture of these products.

## **18.**

Sector: Transport Sub-Sector: Road Passenger Transport Industry JSIC 4311 Common omnibus Classification: operators Obligations National Treatment (Article 2) Concerned: 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: 1. 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. 2. The manufacture of vehicles or parts and components for omnibus industry is not included in omnibus industry. Therefore, the 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: Water Transport Industry JSIC 452 Coastwise transport Classification: JSIC 453 Inland water transport JSIC 4542 Coastwise ship leasing Obligations National Treatment (Article 2) Concerned: 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 the water transport industry in Japan. For greater certainty, "water transport industry" refers to oceangoing/ seagoing transport, coastwise transport (i.e. maritime transport between ports in 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.

## **20.**

Sector: Transport Sub-Sector: Water Transport Industry Classification: Obligations National Treatment (Article 2) Concerned: Most-Favored-Nation Treatment (Article 3) Measures: Ship Law (Law No. 46 of 1899), Article 3 Description: Unless otherwise specified in laws and regulations of Japan, or international agreements to which Japan is a party, ships not flying the Japanese flag are prohibited from entering ports in Japan which are not open to foreign commerce and from carrying cargoes or passengers between ports in Japan.

## **21.**

Sector: Water Supply and Waterworks Sub-Sector: Industry JSIC 3611 Water for end users, Classification: except industrial users Obligations National Treatment (Article 2) Concerned: 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.

## **Annex II. Non-conforming measures referred to in paragraph 2 of article 8**

1. The Schedule of a Contracting Party sets out, pursuant to paragraph 2 of Article 8, the specific sectors, sub-sectors or activities for which that Contracting Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 2;
- (b) Article 3;
- (c) Article 6; or
- (d) Article 7.

2. Each Schedule entry sets out the following elements:

- (a) "Sector" refers to the sector for which the entry is made;
  - (b) "Sub-Sector", where referenced, refers to the specific sub-sector for which the entry is made;
  - (c) "Industry Classification", where referenced, and only for transparency purposes, refers to the activity covered by the non-conforming measure, according to domestic or international industry classification codes;
  - (d) "Obligations Concerned" specifies the obligations referred to in paragraph 1 that, pursuant to paragraph 2 of Article 8, do not apply to the sectors, sub-sectors or activities listed in the entry;
  - (e) "Description" sets out the scope or nature of the sectors, sub-sectors or activities covered by the entry; and (f) "Existing Measures", where specified, identifies, for transparency purposes, a non-exhaustive list of existing measures that apply to the sectors, sub-sectors or activities covered by the entry.
3. In the interpretation of an entry, all elements of the entry shall be considered. The "Description" element shall prevail over all other elements.

4. For the purposes 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 October 30, 2013; and
- (b) The term "CPC" means Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

## **Schedule of the State of Israel**

### **1.**

Sector: Land and Real Estate Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Description: The acquisition of rights to land and real estate by foreign nationals or enterprises controlled by foreign nationals is subject to the prior approval by the Israel Land Authority Council. Existing Measures: Israel's Land Law, 1960.

### **2.**

Sector: Transportation Sub-Sector: Airports and Ports Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: The State of Israel (hereinafter referred to in this Schedule as "Israel") reserves the right to adopt or maintain any measure with regard to airports and ports, including construction, ground handling services and services supplied or operated in airport and ports and including subjecting ports development and assets companies, port companies and authorized companies, as defined in the Shipping and Ports Authority Law, 2004, to an order of essential state interests, or to any other restrictions. Existing Measures: Shipping and Ports Authority Law, 2004 Ports Ordinance, 1971 Shipping and Ports Order (Announcement on Essential State Interests in Eilat Port Company Ltd.), 2012 Airports Authority Law, 1977

### **3.**

Sector: Transportation Sub-Sector: Light Rail Transit Industry Classification: Obligations National Treatment (Article 2)



Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7)  
Description: Israel reserves the right to adopt or maintain any measure with regard to light rail transit, including manufacturing and services related to light rail transit. Existing Measures: Railroad Track Ordinance, 1972

#### **4.**

Sector: Transportation Sub-Sector: Supporting Services for Road Transport and Passenger Transportation Industry CPC 744  
Supporting services for Classification: road transport CPC 7121 Other scheduled passenger transportation Obligations  
National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and  
Board of Directors (Article 7) Description: Israel reserves the right to adopt or maintain any measure with regard to  
supporting services for road transport and passenger transportation. This entry does not include manufacturing of omnibus  
and components for omnibus. Existing Measures:

#### **5.**

Sector: Transportation Sub-Sector: Maritime Cabotage Industry Classification: Obligations National Treatment (Article 2)  
Concerned: Prohibition of Performance Requirements (Article 6) Description: Israel reserves the right to adopt or maintain  
any measure with regard to maritime cabotage involving national treatment or employment of seafarers on vessels  
performing cabotage. Existing Measures: Law of Cabotage (Permit for a Measures: Foreign Sea Vessel), 2005 Cabotage  
Ordinance (Permit for a Foreign Sea Vessel) (Request for Permit), 2012

#### **6.**

Sector: Human Health, Education, Law Enforcement and Correctional Services and Social Services Sub-Sector: Industry  
Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6)  
Senior Management and Board of Directors (Article 7) Description: Israel reserves the right to adopt or maintain any  
measure with regard to human health including health institutions, equipment, services, data exchange and products,  
education, law enforcement and correctional services and, to the extent they are established or maintained for a public  
purpose, social services including income security or insurance, social security or insurance, social welfare, public housing  
and child care. Existing Measures:

#### **7.**

Sector: Distribution Services Sub-Sector: Industry CPC 62112 Sales on a fee or Classification: contract basis of food products,  
beverages and tobacco CPC 62113 Sales on a fee or contract basis of fuels, metals, ores, timber, building materials and  
industrial and technical chemicals CPC 62117 Sales on a fee or contract basis of pharmaceutical and medical goods and  
cosmetics CPC 62226 Wholesale trade services of beverages CPC 62228 Wholesale trade services of tobacco products CPC  
6225 Wholesale trade services of pharmaceutical and medical goods and cosmetics CPC 6227 Wholesale trade services of  
intermediate products, other than agricultural; wholesale trade services of waste and scrap and materials for recycling CPC  
63107 Retail sales of beverages not consumed on the spot CPC 63108 Retail sales of tobacco products CPC 6321 Retail sales  
of pharmaceutical and medical goods and cosmetics Obligations National Treatment (Article 2) Concerned: Prohibition of  
Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: Israel reserves the  
right to adopt or maintain any measure with regard to distribution services as following: (a) commission agents' services for:  
(i) alcoholic beverages and tobacco products; (ii) fuels; or (iii) pharmaceutical and medical goods and cosmetics; (b)  
wholesale trade services for: (i) alcoholic beverages; (ii) tobacco products; (iii) pharmaceutical and medical goods and  
cosmetics; or (iv) intermediate products other than agricultural; waste and scrap and materials for recycling; (c) food  
retailing services for: (i) alcoholic beverages; or (ii) tobacco products; and (d) non-food retailing services for pharmaceutical  
and medical goods and cosmetics. Existing Measures:

#### **8.**

Sector: Planning and Construction Sub-Sector: Construction Industry Classification: Obligations Most-Favored-Nation  
Treatment Concerned: (Article 3) Description: Israel reserves the right to adopt or maintain any measure that accords certain  
advantages with regard to enterprises in the construction sector. Existing Measures:

#### **9.**

Sector: Financial Services Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned:

Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: Israel reserves the right to adopt or maintain any measure with respect to the following financial services: (a) cooperative financial associations providing credit and accepting deposits (Credit Unions); (b) no interest credit and deposit institutions for mutual assistance; (c) credit card issuers and processors; (d) payment service providers (PSP); (e) platforms for crowd funding; (f) credit information database (credit bureau); or (g) broker-dealers of financial instruments. A broker-dealer is a person or a firm in the business of buying and selling securities, operating as both a broker and a dealer. Note: "A no interest credit and deposit institution" is an institution that is authorized to accept 30 or more depositors and to provide deposit services and loans both with no interest rate. Existing Measures:

## **10.**

Sector: Postal and Courier Services Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: Israel reserves the right to adopt or maintain any measure with respect to postal and courier services for any item below 500 gram. Existing Measures:

## **11.**

Sector: Technical Testing and Analysis Services Water Transmission Services Incidental to Forestry and Logging Non-Human Health Services Exploration and Exploitation, Use and Sale of Hydrocarbons, Minerals, Stone and Aggregates Communications Transportation Energy, including the Natural Gas, Oil and Electricity Sub-Sector: Industry Classification: Obligations Prohibition of Performance Concerned: Requirements (Article 6) Description: 1. Israel reserves the right to adopt or maintain any measure, excluding measures involving subparagraph 1(h) of Article 6 of this Agreement, with regard to the granting of concessions or licenses in the sectors listed in the "Sector" element, except energy sector. 2. Israel reserves the right to adopt or maintain any measure with regard to the granting of concessions or licenses in the energy sector. Existing Measures:

## **12.**

Sector: All Sub-Sector: Privatization Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: 1. When transferring or disposing of its equity interests in, or the assets of, a state enterprise or a governmental entity, Israel reserves the right to: (a) prohibit or impose limitations on the ownership of such interests or assets by investors of Japan or their investments; (b) impose limitations on the ability of investors of Japan or their investments as owners of such interests or assets to control any resulting enterprise; (c) adopt or maintain any measure relating to the nationality or permanent residency of members of the board of directors, position holders or certain officers of any resulting enterprise; or (d) impose limitations on the location of management, main operations and center of business of any resulting enterprise. Note: For the purposes of this Schedule, "position holder" is the director general, chief business officer, deputy director general, vice director general or any persons in equivalent positions, member of the board of directors or other officers who directly report to the director general, as defined in Article 1 of the Companies Law, 1999. Further it is understood that director general is an equivalent position to chief executive officer. 2. In the event where the supply of services, which is restricted to designated enterprises or governmental entities, is liberalized 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, Israel reserves the right to adopt or maintain any measure related to those activities. Existing Measures: Government Companies Law (including Special State Share), 1975 Government Companies Order (Announcement on Essential State Interests in Ashot Ashkelon Industries Ltd.), 2005 Government Companies Order (Announcement on Essential State Interests in Oil Refineries Ltd.), 2007 Government Companies Order (Announcement on Essential State Interests in Oil Refinery – Ashdod Ltd.), 2006 Government Companies Order (Announcement on Essential State Interests in El-Al Israel Airlines Ltd.), 2004 Government Companies Order (Announcement on Essential State Interests in IMI Systems Ltd.), 2016 Special State Share in Israel Chemicals Ltd. and in its Subsidiary Companies Special State Share in Zim Integrated Shipping Services Ltd. Special State Share in El-Al Israel Airlines Ltd.

## **13.**

Sector: All Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Description: Israel reserves its right to adopt or maintain measures to promote policy objectives for the benefit of socially or economically disadvantaged groups, including minorities, disabled persons, military veterans and first-degree family members of Israeli fallen soldiers and the development of its peripheral areas. Existing Measures:

## 14.

Sector: Communications Sub-Sector: Satellite Broadcasting Cable Broadcasting Television and Radio Broadcasting Satellite Telecommunications Services Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: 1. Members of the boards of directors and position holders in a licensee of satellite broadcasting, cable broadcasting, television broadcasting or radio broadcasting are required to be nationals of Israel who are residents of Israel in some cases with security clearance and are subject to approval by the relevant regulator. 2. Israel reserves the right to adopt or maintain any measure with regard to licensing of satellite communications facilities for the transmission of voice, data, text, sound and full motion picture video between network termination points and with regard to licensing of services for the transmission of television and radio programs to the consumer by a satellite system. Existing Measures:

## 15.

Sector: All Sub-Sector: Subsidies and Grants Industry Classification: Obligations National Treatment (Article 2) Concerned: Most-Favored-Nation Treatment (Article 3) Senior Management and Board of Directors (Article 7) Description: Israel reserves the right to adopt or maintain any measure with regard to subsidies or grants, including a government-supported loan, guarantee or insurance. Existing Measures: Law for Encouragement of Research, Development and Technological Innovation in Industry, 1984 Law for Encouragement of Capital Investments, 1959 Law for Encouragement of Capital Investments in Agriculture, 1980

## 16.

Sector: All Sub-Sector: Industry Classification: Obligations Most-Favored-Nation Treatment Concerned: (Article 3) Description: Israel reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral agreement or arrangement regarding: (a) aviation; (b) maritime matters, including search and rescue and salvage; (c) co-production and distribution in film, video and television; (d) mutual recognition in different fields; or (e) cooperation in aeronautics and space. Existing Measures:

## 17.

Sector: Defense Industry Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Most-Favored-Nation Treatment (Article 3) Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: Israel reserves the right to adopt or maintain any measure with regard to the defense industry sector. Existing Measures: Defense Export Control Law, 2007 Defense Corporations Law, 2005

## 18.

Sector: Communication Services Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: Israel reserves the right to adopt or maintain certain safeguards with regard to essential communication services, as defined in the Communication Law (Telecommunications and Broadcasting), 1982. Such safeguards may include measures dealing with: (a) control, means of control or the ability to appoint a position holder in a licensee; (b) location of management, main operations and center of business; and (c) members of the board of directors, position holders and certain officers. Existing Measures: Government Companies Law, 1975 Communication Law (Telecommunications and Broadcasting), 1982 Telecommunications Order (Determination of Essential Service Provided by "Bezeq" the Israel Telecommunication Corp, Ltd.), 1997

## 19.

Sector: All Sub-Sector: Industry Classification: Obligations Prohibition of Performance Concerned: Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: 1. Members of the board of directors, position holders and certain officers in public bodies as defined in Security of Public Bodies Law, 1998, and persons in certain positions with cyber security responsibilities, are required to be nationals or permanent residents of Israel and to hold appropriate security clearances. 2. Israel reserves the right to demand the imposition or enforcement of the purchase or use of goods produced or services provided in its Territory, when the demand is mainly related to cyber security and is in conformance with national cyber security policy. Existing Measures: Security of Public Bodies Law, 1998 Government Decision 2443 of 2015 Government Decision 2444 of 2015

## **20.**

Sector: Agriculture Sub-Sector: Dairying including Cattle, Goats and Sheep Dairying Poultry and Eggs Honey including Beekeeping Groundnuts Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Description: Israel reserves the right to adopt or maintain any measure relating to agriculture sectors listed in the "Sub-Sector" element. Existing Measures:

## **21.**

Sector: Mining including Phosphates Mining, Quarrying and Services Incidental to Mining and Quarrying Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: Israel reserves the right to adopt or maintain any measure with regard to mining including phosphates mining, quarrying and services incidental to mining and quarrying. Existing Measures: Mining Ordinance

## **22.**

Sector: Energy Sub-Sector: Gas including Natural Gas Oil Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: 1. Israel reserves the right to adopt or maintain any measure with regard to the natural gas sector and to essential services in the oil sector. 2. Israel may require a petroleum right holder, as defined in the Oil Law, 1952, to supply certain amount of oil or oil products for domestic consumption and usage. 3. Israel reserves the right to adopt or maintain any measure involving national treatment or performance requirements, with regard to oil distillates and oil refineries and with regard to pipeline transport of oil and natural gas including crude or refined oil and oil products. 4. Israel reserves the right to adopt or maintain any measure with regard to storage of liquids or gases and bulk storage services of liquids (oil or liquefied gas) or gases and with regard to oil and gas exploration and production. Existing Measures: Government Decision 442 of 2013 Government Decision 476 of 2015 Government Decision 1465 of 2016 Natural Gas Sector Law, 2002 Gas Law (Safety and Licensing), 1989 Oil Law, 1952 Oil Supervisor's Guidelines for Licensing of Onshore Oil Exploration

## **23.**

Sector: Energy Sub-Sector: Liquefied Petroleum Gas (LPG) Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: 1. Nationality and residency of Israel are required for a natural person applying for licensure as a gas supplier, gas agent or a gas technician/engineer. 2. Members of the board of directors, position holders and certain officers in an LPG licensed enterprise are required to be nationals of Israel who are residents of Israel, in some cases with security clearance. 3. Foreign ownership in an LPG licensed enterprise may be restricted. 4. Foreign LPG technicians may be subject to time limited license. 5. Israel reserves the right to adopt or maintain any measure involving performance requirements, with regard to LPG marketing and exporting. Existing Measures: Gas Law (Safety and Licensing), 1989 Natural Gas Sector Law, 2002

## **24.**

Sector: Energy Sub-Sector: Electricity Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: 1. A licensee as a supplier of an electricity service who provides an essential service, as defined in the Electricity Market Law, 1996, shall be subject to the following conditions: (a) the licensee shall be controlled by nationals of Israel who are residents of Israel; (b) the maximum rate of means of control in the licensee to be held, directly or indirectly, by non-residents of Israel, is subject to a determination by the Minister of National Infrastructures; and (c) members of the board of directors, position holders and certain officers in the licensee are required to be nationals of Israel who are residents of Israel, in some cases with security clearance. 2. Members of the board of directors, position holders and certain officers in an enterprise licensed to transmit, distribute, supply or produce electricity are required to be nationals of Israel who are residents of Israel, in some cases with security clearance. 3. Foreign ownership in an enterprise licensed to transmit, distribute, supply or produce electricity may be restricted. 4. Nationality of Israel is required for licensure of a natural person to transmit, distribute, supply or produce electricity. 5. Approval of guarantees of a foreign bank to a licensee for selling electricity is subject to the consideration of the Electricity Authority. Existing Measures: Electricity Market Law, 1996 The Electricity Authority Book of Standards

## **25.**

Sector: Identity Management, Biometric Technology, Biometric Information and Databases Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: 1. Israel reserves the right to impose or enforce any of the following requirements, with regard to identity management, biometric technology and biometric information and databases: (a) to restrict the exportation or sale for export; (b) to purchase or use goods produced or services provided in its Territory; and (c) to transfer technology, a production process or other proprietary knowledge to a natural person or an enterprise in its Territory. 2. Members of the board of directors, position holders and certain officers in an enterprise responsible for identity management and/or managing of a biometric information and database may be required to be nationals or permanent residents of Israel, in some cases with security clearance and the enterprise may be required to be incorporated in Israel and have its main operations and center of business in Israel. Existing Measures:

## **26.**

Sector: Treatment of Waste Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: Israel reserves the right to adopt or maintain any measure with regard to treatment of hazardous waste and with regard to the development of domestic treatment capacities of waste. Existing Measures:

## **Schedule of Japan**

### **1.**

Sector: All Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Senior Management and Board of Directors (Article 7) 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 State of Israel or their investments; (b) impose limitations on the ability of investors of the State of Israel 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 Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Senior Management and Board of Directors (Article 7) 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 and minting and sale of coinage in Japan, which are restricted to designated enterprises or governmental entities, are liberalized 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 related to those activities. Existing Measures:

### **3.**

Sector: All Sub-Sector: Industry Classification: Obligations Most-Favored-Nation Treatment Concerned: (Article 3) Description: Japan reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral agreement involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage. Existing Measures:

### **4.**

Sector: All Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Most-Favored-Nation Treatment (Article 3) Description: National Treatment and Most-Favored- Nation Treatment may not be accorded to investors of the State of Israel and their investments with respect to subsidies. Existing Measures:

### **5.**

Sector: Aerospace Industry Sub-Sector: Aircraft Industry Space Industry Industry Classification: Obligations National

Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: Japan reserves the right to adopt or maintain any measure relating to the 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

## **6.**

Sector: Arms and Explosives Industry Sub-Sector: Arms Industry Explosives Manufacturing Industry Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: Japan reserves the right to adopt or maintain any measure relating to the investment in the 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

## **7.**

Sector: Energy Sub-Sector: Electricity Utility Industry Gas Utility Industry Nuclear Energy Industry Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) 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

## **8.**

Sector: Fisheries Sub-Sector: Fisheries within the Territorial Sea, Internal Waters, Exclusive Economic Zone and Continental Shelf Industry JSIC 031 Marine fisheries Classification: JSIC 032 Inland water fisheries JSIC 041 Marine aquaculture JSIC 042 Inland water aquaculture JSIC 8093 Recreational fishing guide business Obligations National Treatment (Article 2) Concerned: Most-Favored-Nation Treatment (Article 3) Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) 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 entry, 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

## **9.**

Sector: Information and Communications Sub-Sector: Broadcasting Industry Industry JSIC 380 Establishments engaged Classification: in administrative or ancillary economic activities JSIC 381 Public broadcasting, except cablecasting JSIC 382 Private-sector broadcasting, except cablecasting JSIC 383 Cablecasting Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) 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), Chapter 2 Broadcast Law (Law No. 132 of 1950), Chapters 5 and 8

## **10.**

Sector: Land Transaction Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Most-Favored-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

## 11.

Sector: Public Law Enforcement and Correctional Services and Social Services Sub-Sector: Industry Classification: Obligations National Treatment (Article 2) Concerned: Most-Favored-Nation Treatment (Article 3) Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) 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:

## 12.

Sector: Transport Sub-Sector: Air Transport Industry Classification: Obligations National Treatment (Article 2) Concerned: Prohibition of Performance Requirements (Article 6) Senior Management and Board of Directors (Article 7) Description: Japan reserves the right to adopt or maintain any measure with respect to investment in airports or airport operation services. For the purposes of this entry, the term "airport operation services" means the supply of air terminal, airfield and other airport infrastructure operation services on a fee or contract basis. Airport operation services do not include air navigation services. Existing Measures: