

# Free Trade Agreement (FTA) on Trade in Services

- PJEPA -

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Article 68  
Confidentiality

1. Each Party shall maintain, in accordance with its laws and regulations, the confidentiality of information provided to it as confidential pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.

2. Information obtained pursuant to this Chapter shall not be used by a Party in any criminal proceedings carried out by a court or a judge, unless the information is requested to the other Party and provided to the former Party, through the diplomatic channels or other channels established in accordance with the applicable laws of the requested Party.

Article 69  
Sectoral Annex

If a Party introduces new or additional conformity assessment procedures within the same product coverage to satisfy the technical requirements set out in the applicable laws, regulations and administrative provisions specified in the relevant Sectoral Annex, Part 2 of the Sectoral Annex shall be amended to set out the applicable laws, regulations and administrative provisions stipulating such new or additional conformity assessment procedures, in accordance with the procedures set out in paragraph 2 of Article 163.

Chapter 7  
Trade in Services

Article 70  
Scope and Coverage

1. This Chapter shall apply to measures by a Party affecting trade in services.

2. This Chapter shall not apply to:

(a) in respect of air transport services, measures affecting traffic rights, however granted; or to measures affecting services directly related to the exercise of traffic rights, other than measures affecting:

(i) aircraft repair and maintenance services;

- (ii) the selling and marketing of air transport services; and
- (iii) computer reservation system services;
- (b) cabotage in maritime transport services;
- (c) subsidies provided by a Party or a state enterprise thereof, including grants, government-supported loans, guarantees and insurance;
- (d) measures pursuant to immigration laws and regulations; and
- (e) measures affecting natural persons seeking access to the employment market of a Party, or measures regarding nationality or citizenship, or residence or employment on a permanent basis.

3. Articles 72, 73 and 76 shall not apply to any measure by a Party with respect to government procurement.

4. Annex 5 provides supplementary provisions to this Chapter with respect to measures affecting the supply of financial services.

#### Article 71 Definitions

For the purposes of this Chapter:

- (a) the term "aircraft repair and maintenance services" means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and does not include so-called line maintenance;
- (b) the term "commercial presence" means any type of business or professional establishment, including through:
  - (i) the constitution, acquisition or maintenance of a juridical person; or
  - (ii) the creation or maintenance of a branch or a representative office;

within the Area of a Party for the purposes of supplying a service;

- (c) the term "computer reservation system services" means services provided by computerized systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;
- (d) the term "juridical person of the other Party" means a juridical person which is either:
  - (i) constituted or otherwise organized under the law of the other Party; or
  - (ii) in the case of the supply of a service through commercial presence, owned or controlled by:
    - (aa) natural persons of the other Party; or
    - (bb) juridical persons of the other Party identified under subparagraph (i) above;
- (e) a juridical person is:
  - (i) "owned" by persons if more than fifty (50) percent of the equity interest in it is owned by such persons;
  - (ii) "controlled" by persons if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;
  - (iii) "affiliated" with another person when it controls, or is controlled by, that other person; or when it and the other person are both controlled by the same person;
- (f) the term "measures by a Party" means measures taken by:
  - (i) central or local governments; and
  - (ii) non-governmental bodies in the exercise of powers delegated by central or local governments;
- (g) the term "measures by a Party affecting trade in services" includes measures in respect of:

- (i) the purchase, payment or use of a service;
  - (ii) the access to and use of, in connection with the supply of a service, services which are required by a Party to be offered to the public generally;
  - (iii) the presence, including commercial presence, of persons of a Party for the supply of a service in the Area of the other Party;
- (h) the term "monopoly supplier of a service" means any person, public or private, which in the relevant market of the Area of a Party is authorized or established formally or in effect by that Party as the sole supplier of that service;
- (i) the term "natural person of the other Party" means a natural person who resides in the other Party or elsewhere and who under the law of the other Party is a national of the other Party;
- (j) the term "sector" of a service means:
- (i) with reference to a specific commitment, one or more, or all, subsectors of that service, as specified in a Party's Schedule of Specific Commitments in Part 1 of Annex 6;  
or
  - (ii) otherwise, the whole of that service sector, including all of its subsectors;
- (k) the term "selling and marketing of air transport services" means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services nor the applicable conditions;
- (l) the term "service consumer" means any person that receives or uses a service;
- (m) the term "service of the other Party" means a service which is supplied:

- (i) from or in the Area of the other Party, or in the case of maritime transport, by a vessel registered under the laws of the other Party, or by a person of the other Party which supplies the service through the operation of a vessel or its use in whole or in part; or
- (ii) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of the other Party;
- (n) the term "services" includes any service in any sector except services supplied in the exercise of governmental authority;
- (o) the term "service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;
- (p) the term "service supplier" means any person that supplies a service;

Note: Where the service is not supplied directly by a juridical person but through other forms of commercial presence such as a branch or a representative office, the service supplier (i.e. the juridical person) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the Area where the service is supplied.

- (q) the term "service supplier of the other Party" means any natural person of the other Party or juridical person of the other Party, that supplies a service;
- (r) the term "state enterprise" means an enterprise owned or controlled by a Party;
- (s) the term "supply of a service" includes the production, distribution, marketing, sale and delivery of a service;

- (t) the term "trade in services" means the supply of a service:
  - (i) from the Area of one Party into the Area of the other Party ("cross-border mode");
  - (ii) in the Area of one Party to the service consumer of the other Party ("consumption abroad mode");
  - (iii) by a service supplier of one Party, through commercial presence in the Area of the other Party ("commercial presence mode");
  - (iv) by a service supplier of one Party, through presence of natural persons of that Party in the Area of the other Party ("presence of natural persons mode"); and
- (u) the term "traffic rights" means the rights for scheduled and non-scheduled services to operate and/or to carry passengers, cargo and mail for remuneration or hire from, to, within, or over a Party, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership and control.

Article 72  
Market Access

1. With respect to market access through the modes of supply defined in subparagraph (t) of Article 71, each Party shall accord services and service suppliers of the other Party treatment no less favorable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule of Specific Commitments in Part 1 of Annex 6.

Note: If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (t)(i) of Article 71 and if the cross-border movement of capital is an essential part of the service itself, that Party is thereby committed to allow such movement of capital. If a Party undertakes a market-access commitment in relation to the supply of a service through the mode of supply referred to in subparagraph (t)(iii) of Article 71, it is thereby committed to allow related transfers of capital into its Area.

2. In sectors where market-access commitments are undertaken, the measures which a Party shall not maintain or adopt either on the basis of a regional subdivision or on the basis of its entire Area, unless otherwise specified in its Schedule of Specific Commitments in Part 1 of Annex 6, are defined as:

- (a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;
- (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
- (c) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;

Note: This subparagraph does not cover measures of a Party which limit inputs for the supply of services.

- (d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of numerical quotas or the requirement of an economic needs test;



- (e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and
- (f) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.

Article 73  
National Treatment

1. In the sectors inscribed in its Schedule of Specific Commitments in Part 1 of Annex 6, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of the other Party, in respect of all measures affecting the supply of services, treatment no less favorable than that it accords to its own like services and service suppliers.

Note: Specific commitments assumed under this Article shall not be construed to require either Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

2. A Party may meet the requirement of paragraph 1 above by according to services and service suppliers of the other Party, either formally identical treatment or formally different treatment to that it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favorable if it modifies the conditions of competition in favor of services or service suppliers of a Party compared to like services or service suppliers of the other Party.

Article 74  
Additional Commitments

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Articles 72 and 73, including those regarding qualifications, standards or licensing matters. Such commitments shall be inscribed in a Party's Schedule of Specific Commitments in Part 1 of Annex 6.

Article 75  
Schedule of Specific Commitments

1. Each Party shall set out in a schedule the Specific Commitments it undertakes under Articles 72, 73 and 74.
2. With respect to sectors where the specific commitments are undertaken, each Schedule of Specific Commitments in Part 1 of Annex 6 shall specify:
  - (a) terms, limitations and conditions on market access;
  - (b) conditions and qualifications on national treatment;
  - (c) undertakings relating to additional commitments; and
  - (d) where appropriate, the time-frame for implementation of such commitments.
3. With respect to sectors or subsectors where the specific commitments are undertaken and which are indicated with "SS", any terms, limitations, conditions and qualifications, referred to in subparagraphs 2(a) and (b) above, shall be limited to existing non-conforming measures.
4. Measures inconsistent with both Articles 72 and 73 shall be inscribed in the column relating to Article 72. This inscription will be considered to provide a condition or qualification to Article 73 as well.
5. Schedules of Specific Commitments shall be annexed to this Agreement as Part 1 of Annex 6.

Article 76  
Most-Favored-Nation Treatment

1. Each Party shall accord to services and service suppliers of the other Party treatment no less favorable than that it accords, in like circumstances, to services and service suppliers of any non-Party.
2. The provision of paragraph 1 above shall not apply to any measure by a Party with respect to sectors, subsectors or activities, as set out in its Schedule to Part 2 of Annex 6.

Article 77  
Authorization, Licensing or Qualification

With a view to ensuring that any measure by a Party relating to the authorization, licensing or qualification of service suppliers of the other Party does not constitute an unnecessary barrier to trade in services, each Party shall endeavor to ensure that such measure:

- (a) is based on objective and transparent criteria, such as competence and the ability to supply the service;
- (b) is not more burdensome than necessary to ensure the quality of the service; and
- (c) does not constitute a disguised restriction on the supply of the services.

Article 78  
Mutual Recognition

1. A Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in the other Party for the purposes of the fulfillment, in whole or in part, of its standards or criteria for the authorization, licensing or certification of service suppliers of the other Party.

2. Recognition referred to in paragraph 1 above, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement between the Parties or may be accorded unilaterally.

3. Where a Party recognizes, by agreement or arrangement between the Party and a non-Party or unilaterally, the education or experience obtained, requirements met or licenses or certifications granted in the non-Party;

- (a) nothing in Article 76 shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met or licenses or certifications granted in the other Party; and
- (b) the Party shall accord the other Party an adequate opportunity to demonstrate that the education or experience obtained, requirements met or licenses or certifications granted in the other Party should also be recognized.

Article 79  
Transparency

1. The competent authorities referred to in paragraph 2 of Article 3 shall, upon request by service suppliers of the other Party, promptly respond to specific questions from, and provide information to, the service suppliers with respect to matters referred to in paragraph 1 of Article 3, including requirements and procedures for licensing and qualification, through enquiry points. The enquiry points shall be notified to the other Party by diplomatic note on the date of entry into force of this Agreement.

2. Each Party shall prepare, forward to the other Party and make public a list providing all existing measures, within the scope of this Chapter, at the central governmental level and, in the case of Japan, prefectural governmental level, and in the case of the Philippines, provincial governmental level, which are inconsistent with Articles 72 and/or 73, whether or not these measures are included in its specific commitments in Part 1 of Annex 6. The list shall include the following elements and shall be reviewed annually and revised as necessary:

- (a) sector and subsector or matter;
- (b) type of inconsistency (i.e. Market Access and/or National Treatment);
- (c) legal source or authority of the measure; and
- (d) succinct description of the measure.

Note: The list under this paragraph will be made solely for the purposes of transparency, and shall not be construed to affect any rights and obligations of a Party under this Chapter.

Article 80  
Monopolies and Exclusive Service Suppliers

1. Each Party shall ensure that any monopoly supplier of a service in its Area does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with the Party's specific commitments.

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is subject to that Party's specific commitments, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its Area in a manner inconsistent with such commitments.

3. The provisions of this Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

- (a) authorizes or establishes a small number of service suppliers; and
- (b) substantially prevents competition among those suppliers in its Area.

#### Article 81 Payments and Transfers

1. Except under the circumstances envisaged in Article 82, a Party shall not apply restrictions on international transfers and payments for current transactions relating to trade in services.

2. Nothing in this Chapter shall affect the rights and obligations of the Parties as members of the International Monetary Fund under the Articles of Agreement of the International Monetary Fund, including the use of exchange actions which are in conformity with the Articles of Agreement of the International Monetary Fund, provided that a Party shall not impose restrictions on any capital transactions inconsistently with its commitments under this Chapter regarding such transactions, except under Article 82, or at the request of the International Monetary Fund.

#### Article 82 Restrictions to Safeguard the Balance of Payments

1. In the event of serious balance-of-payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on trade in services, including on payments or transfers for transactions.

2. The restrictions referred to in paragraph 1 above:

- (a) shall ensure that the other Party is treated as favorably as any non-Party;

- (b) shall be consistent with the Articles of Agreement of the International Monetary Fund;
- (c) shall avoid unnecessary damage to the commercial, economic and financial interests of the other Party;
- (d) shall not exceed those necessary to deal with the circumstances described in paragraph 1 above; and
- (e) shall be temporary and be phased out progressively as the situation specified in paragraph 1 above improves.

3. In determining the incidence of such restrictions, a Party may give priority to the supply of services which are more essential to their economic or development programs. However, such restrictions shall not be adopted or maintained for the purposes of protecting a particular service sector.

4. Any restrictions adopted or maintained under paragraph 1 above, or any changes therein, shall be promptly notified to the other Party.

#### Article 83 General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the other Party, or a disguised restriction on trade in services between the Parties, nothing in this Chapter shall be construed to prevent the adoption or enforcement by either Party of measures:

- (a) necessary to protect public morals or to maintain public order;

Note: The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

- (b) necessary to protect human, animal or plant life or health;
- (c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter including those relating to:

- (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on services contracts;
- (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;
- (iii) safety.

Article 84  
Security Exceptions

1. Nothing in this Chapter shall be construed:
  - (a) to require a Party to furnish any information, the disclosure of which it considers contrary to its essential security interests; or
  - (b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:
    - (i) relating to the supply of services as carried out directly or indirectly for the purposes of provisioning a military establishment;
    - (ii) relating to the implementation of national policies or international agreements respecting the non-proliferation of weapons, or relating to fissionable and fusionable materials or the materials from which they are derived;
    - (iii) taken in time of war or other emergency in international relations; or
  - (c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.
2. Each Party shall be informed to the fullest extent possible of measures taken by the other Party under subparagraphs 1(b) and (c) and of their termination.

Article 85  
Denial of Benefits

1. A Party may deny the benefits of this Chapter to a service supplier of the other Party where the Party establishes that the service is being supplied by a juridical person that is owned or controlled by persons of a non-Party, and that denying Party:

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

2. Subject to prior notification and consultation, a Party may deny the benefits of this Chapter to a service supplier of the other Party where the Party establishes that the service is being supplied by a juridical person that is owned or controlled by persons of a non-Party and that has no substantial business activities in the Area of that other Party. This paragraph shall not apply to maritime transport services supplied by a vessel registered under the laws of the other Party.

Article 86  
Sub-Committee on Trade in Services

1. For purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Trade in Services (hereinafter referred to in this Article as "the Sub-Committee") shall be established pursuant to Article 13.

2. The functions of the Sub-Committee shall be:

- (a) reviewing commitments, including the scope of commitments to be indicated with "SS" pursuant to paragraph 3 of Article 75, with respect to measures affecting trade in services in this Chapter, with a view to achieving further liberalization on a mutually advantageous basis and securing an overall balance of rights and obligations;
- (b) reviewing the implementation and operation of this Chapter;



- (c) exchanging information on domestic laws and regulations;
- (d) discussing any issues related to this Chapter, including deadlines for preparing, forwarding to the other Party and making public the list referred to in Article 79;
- (e) reporting the findings of the Sub-Committee to the Joint Committee; and
- (f) performing other functions as may be delegated by the Joint Committee pursuant to Article 13.

Chapter 8  
Investment

Article 87  
Scope and Coverage

1. This Chapter shall apply to measures adopted or maintained by a Party relating to:
  - (a) investors of the other Party; and
  - (b) investments of investors of the other Party in the Area of the former Party.
2. Nothing in this Chapter shall impose any obligation on either Party regarding measures pursuant to immigration laws and regulations.
3. Nothing in this Chapter shall be construed to expand the scope of the specific commitments undertaken by either Party pursuant to Chapter 7.
4. Articles 89, 90 and 93 shall not apply to any measure that the Philippines adopts or maintains relating to investors of Japan and their investments in service sectors with respect to the establishment, acquisition or expansion of investments.

Article 88  
Definitions

For the purposes of this Chapter:

- (a) the term "financial services" shall have the same meaning as in subparagraph 5(a) of the Annex on Financial Services of the GATS;

- (b) the term "investments" means every kind of asset owned or controlled, directly or indirectly, by an investor of a Party, including:
- (i) a juridical person;
  - (ii) shares, stocks or other forms of equity participation in a juridical person, including rights derived therefrom;
  - (iii) bonds, debentures, and loans and other forms of debt, including rights derived therefrom;
  - (iv) rights under contracts, including turnkey, construction, management, production or revenue-sharing contracts;
  - (v) claims to money and claims to any performance under contract having a financial value;
  - (vi) intellectual property rights, including copyrights, patent rights, rights relating to trademarks, industrial designs, layout-designs of integrated circuits, new varieties of plants, trade names, indications of source or geographical indications and undisclosed information;
  - (vii) rights conferred pursuant to laws and regulations or contracts such as concessions, licenses, authorizations, and permits; and
  - (viii) any other tangible and intangible, movable and immovable property, and any related property rights, such as leases, mortgages, liens and pledges;

investments also include profits, capital gains, dividends, royalties, interests, fees and other current incomes accruing from investments. A change in the form in which assets are invested does not affect their character as investments;

- (c) the term "investor of a Party" means:
- (i) a natural person who is a national of a Party and who is not a national of the other Party; or

- (ii) juridical person of a Party,  
that seeks to make, is making, or has made investments in the Area of the other Party. A branch of a juridical person of a non-Party, which is located in the Area of a Party, shall not be deemed as an investor of that Party;
- (d) a juridical person is:
  - (i) "owned" by persons if more than fifty (50) percent of the equity interest in it is owned by such persons; or
  - (ii) "controlled" by persons if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;
- (e) the term "a juridical person of a Party" means a juridical person duly constituted or otherwise organized under the law of a Party, with its seat of control or substantial business activities in the Area of that Party; and
- (f) the term "transfers" means transfers and international payments.

Article 89  
National Treatment

Each Party shall accord to investors of the other Party and to their investments treatment no less favorable than that it accords, in like circumstances, to its own investors and to their investments with respect to the establishment, acquisition, expansion, management, operation, maintenance, use, possession, liquidation, sale, or other disposition of investments (hereinafter referred to in this Chapter as "investment activities").

Article 90  
Most-Favored-Nation Treatment

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

Article 91  
General Treatment

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

Note: This Article prescribes the customary international law minimum standard of treatment of aliens as the minimum standard of treatment to be afforded to investments of investors of the other Party. The concepts of "fair and equitable treatment" and "full protection and security" do not require treatment in addition to or beyond that which is required by the customary international law minimum standard of treatment of aliens. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not *ipso facto* establish that there has been a breach of this Article.

Article 92  
Access to the Courts of Justice

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

Article 93  
Prohibition of Performance Requirements

1. Neither Party shall impose or enforce, as a condition for investment activities in its Area of an investor of the other Party, any of the following requirements:

- (a) to export a given level or percentage of goods or services;
- (b) to achieve a given level or percentage of domestic content;
- (c) to purchase, use or accord a preference to goods produced or services provided in its Area, or to purchase goods or services from persons in its Area;

- (d) to relate the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows associated with investments related to such investment activities;
- (e) to restrict sales of goods or services in its Area that investments related to such investment activities produce or provide by relating such sales to the volume or value of its exports or foreign exchange earnings;
- (f) to appoint, as executives, managers or members of boards of directors, individuals of any particular nationality;
- (g) to hire a given level of its nationals;
- (h) to transfer technology, a production process or other proprietary knowledge to a person in its Area, except when the requirement:
  - (i) is imposed or enforced by a court, administrative tribunal or competition authority to remedy an alleged violation of competition laws; or
  - (ii) concerns the transfer of intellectual property rights which is undertaken in a manner not inconsistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement (hereinafter referred to in this Chapter as "the TRIPS Agreement");
- (i) to locate the headquarters of that investor for a specific region or the world market in its Area;
- (j) to achieve a given level or value of research and development in its Area; or
- (k) to supply one or more of the goods that the investor produces or the services that the investor provides to a specific region or world market, exclusively from its Area.

2. The provision of paragraph 1 above does not preclude either Party from conditioning the receipt or continued receipt of an advantage, in connection with investment activities in its Area of an investor of the other Party, on compliance with any of the requirements set forth in subparagraphs (g) through (k) of paragraph 1 above.

Article 94  
Reservations and Exceptions

1. Articles 89, 90 and 93 shall not apply to:

- (a) any existing non-conforming measure that is maintained by a Party at the central government level, as set out in its Schedule to Part 1 of Annex 7;
- (b) any existing non-conforming measure that is maintained by:
  - (i) a prefecture in the case of Japan or a province in the case of the Philippines, for one (1) year after the date of entry into force of this Agreement, and thereafter as to be set out by a Party in its Schedule to Part 1 of Annex 7 in accordance with paragraph 2 below; or
  - (ii) a local government other than prefectures and provinces referred to in subparagraph (i) above;
- (c) the continuation or prompt renewal of any non-conforming measure referred to in subparagraphs (a) and (b) above; or
- (d) an amendment to any non-conforming measure referred to in subparagraphs (a) and (b) above, provided that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 89, 90 and 93.

2. Each Party shall set out in its Schedule to Part 1 of Annex 7, within one (1) year of the date of entry into force of this Agreement, any existing non-conforming measure maintained by a prefecture or a province referred to in subparagraph 1(b)(i) above and shall notify thereof the other Party by a diplomatic note.

3. Articles 89, 90 and 93 shall not apply to any measure that a Party adopts or maintains with respect to sectors, subsectors or activities, as set out in its Schedule to Part 2 of Annex 7, subject to the conditions set out therein.

4. Neither Party may, under any measure adopted after the date of entry into force of this Agreement and covered by Part 2 of Annex 7, require an investor of the other Party, by reason of its nationality, to sell or otherwise dispose of an investment existing at the time the measure becomes effective.

5. In cases where a Party makes an amendment referred to in subparagraph 1(d) above, or where a Party adopts any new or more restrictive measure with respect to sectors, subsectors or activities as set out in its Schedule to Part 2 of Annex 7 after the date of the entry into force of this Agreement, that Party shall, prior to the implementation of the amendment or the new or more restrictive measure, or in exceptional circumstances, as soon as possible thereafter:

(a) notify the other Party of the following elements:

(i) sector and subsector or activity;

(ii) type of reservation;

(iii) level of Government;

(iv) measures; and

(v) description; and

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

6. Each Party shall endeavor, where appropriate, to reduce or eliminate the reservation set out in its Schedules to Parts 1 and 2 of Annex 7 respectively.

7. Articles 89, 90 and 93 shall not apply to any measure that a Party adopts or maintains with respect to government procurement.

8. Articles 89 and 90 shall not apply to any measure covered by an exception to the obligations under Articles 3 and 4 of the TRIPS Agreement, as specifically provided in those Articles and in Article 5 of the TRIPS Agreement.

9. Nothing in this Article shall be construed so as to derogate from the obligations of the Parties under the Agreement on Trade Related Investment Measures in Annex 1A to the WTO Agreement.

Article 95  
Expropriation and Compensation

1. Neither Party shall expropriate or nationalize investments in its Area of investors of the other Party or take any measure equivalent to expropriation or nationalization (hereinafter referred to in this Chapter as "expropriation") except: (a) for a public purpose; (b) on a non-discriminatory basis; (c) in accordance with due process of law; and (d) upon payment of prompt, adequate and effective compensation.

2. Compensation shall be equivalent to the fair market value of the expropriated investments at the time when the expropriation was publicly announced or when the expropriation occurred without public announcement, whichever is the earlier. The fair market value shall not reflect any change in market value occurring because the expropriation had become publicly known earlier.

3. The compensation shall be paid without delay and shall carry an appropriate interest, taking into account the length of time from the time of expropriation until the time of payment. It shall be effectively realizable and freely transferable and shall be freely convertible, at the market exchange rate prevailing on the date of the expropriation, into the currency of the Party of the investors concerned and freely usable currencies defined in the Articles of Agreement of the International Monetary Fund.

4. The investors affected by expropriation shall have a right of access to the courts of justice or the administrative tribunals or agencies of the Party making the expropriation to seek a prompt review of the investor's case and the amount of compensation in accordance with the principles set out in this Article.



Article 96  
Protection from Strife

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

2. Any payments made pursuant to paragraph 1 above shall be effectively realizable, freely convertible and freely transferable.

Article 97  
Transfers

1. Each Party shall ensure that all transfers relating to investments in its Area of an investor of the other Party may be made freely into and out of its Area without delay. Such transfers shall include:

- (a) the initial capital and additional amounts to maintain or increase investments;
- (b) profits, capital gains, dividends, royalties, interests, fees and other current incomes accruing from investments;
- (c) proceeds from the total or partial sale or liquidation of investments;
- (d) payments made under a contract including loan payments in connection with investments;
- (e) earnings and remuneration of personnel from the other Party who work in connection with investments in the Area of the former Party; and
- (f) payments made in accordance with Articles 95 and 96.

2. Neither Party shall prevent transfers into and out of its Area from being made without delay in freely usable currencies at the market rate of exchange prevailing on the date of the transfer.

3. Notwithstanding paragraphs 1 and 2 above, a Party may delay or prevent a transfer into and out of its Area through the equitable, non-discriminatory and good-faith application of its laws 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 offences;
- (d) registration, reportorial and prior approval requirement concerning transfers of currency or other monetary instruments; or

Note: Prior approval requirement applies only to short-term foreign currency loans with the original maturity of up to one (1) year.

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

#### Article 98 Subrogation

1. If a Party or its designated agency makes a payment to any of its investors pursuant to an indemnity, guarantee or insurance contract, arising from or pertaining to an investment of that investor within the Area of the other Party, that other Party shall:

- (a) recognize the assignment, to the former Party or its designated agency, of any right or claim of such investor that formed the basis of such payment; and
- (b) recognize the right of the former Party or its designated agency to exercise by virtue of subrogation any such right or claim to the same extent as the original right or claim of the investor.

2. Articles 95, 96 and 97 shall apply *mutatis mutandis* as regards payment to be made to the Party or its designated agency first mentioned in paragraph 1 above by virtue of such assignment of right or claim, and the transfer of such payment.

Article 99  
General and Security Exceptions

1. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the other Party, or a disguised restriction on investments of investors of the other Party in the Area of a Party, nothing in this Chapter other than Article 96 shall be construed to prevent a Party from adopting or enforcing measures:

- (a) necessary to protect human, animal or plant life or health;
- (b) necessary to protect public morals or to maintain public order;

Note: The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

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

2. In cases where a Party takes any measure, pursuant to paragraph 1 above, that does not conform with the obligations of the provisions of this Chapter other than Article 96, that Party shall, prior to the entry into force of the measure or as soon thereafter as possible, notify the other Party of the following elements:

- (a) sector and subsector or activity;
- (b) obligation or article in respect of the measure;
- (c) legal source of the measure;

- (d) succinct description of the measure; and
- (e) purpose of the measure.

3. Notwithstanding the provisions of Article 89, each Party may prescribe special formalities in connection with the establishment of investments by investors of the other Party in its Area such as the compliance with registration requirements, provided that such special formalities do not impair the substance of the rights under this Chapter.

#### Article 100 Temporary Safeguard Measures

1. A Party may adopt or maintain measures inconsistent with its obligations provided for in Article 89 relating to cross-border capital transactions and Article 97:

- (a) in the event of serious balance-of-payments and external financial difficulties or threat thereof; or
- (b) in cases where, in exceptional circumstances, movements of capital cause or threaten to cause serious difficulties for macroeconomic management in particular, monetary and exchange rate policies.

2. Measures referred to in paragraph 1 above:

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

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

Article 101  
Prudential Measures

Notwithstanding any other provisions of this Chapter, a Party may adopt or maintain 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 a person supplying financial services, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of this Chapter, they shall not be used as a means of avoiding the Party's commitments or obligations under this Chapter.

Article 102  
Environmental Measures

Each Party recognizes that it is inappropriate to encourage investments by investors of the other Party by relaxing its environmental measures. To this effect each Party should not waive or otherwise derogate from such environmental measures as an encouragement for establishment, acquisition or expansion in its Area of investments by investors of the other Party.

Article 103  
Investment and Labor

1. The Parties recognize that it is inappropriate to encourage investment by weakening or reducing the protections afforded in domestic labor laws. Accordingly, each Party shall strive to ensure that it does not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws in a manner that weakens or reduces adherence to the internationally recognized labor rights referred to in paragraph 2 below as an encouragement for the establishment, acquisition, expansion or retention of an investment in its Area. If a Party considers that the other Party has offered such an encouragement, it may request consultations with the other Party and the Parties shall consult with a view to avoiding any such encouragement.

2. For purposes of this Article, "labor laws" means each Party's laws or regulations that are directly related to the following internationally recognized labor rights:

- (a) the right of association;
- (b) the right to organize and bargain collectively;

- (c) a prohibition on the use of any form of forced or compulsory labor;
- (d) labor protections for children and young people, including a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and
- (e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Article 104  
Taxation Measures as Expropriation

1. Article 95 shall apply to taxation measures, to the extent that such taxation measures constitute expropriation as provided for in paragraph 1 of Article 95.
2. Where paragraph 1 above applies, Articles 92 and 106 shall also apply in respect of taxation measures.

Note: A taxation measure which is applied in a non-discriminatory manner shall not be considered to constitute expropriation.

Article 105  
Denial of Benefits

A Party may deny the benefits of this Chapter to an investor of the other Party that is a juridical person of such Party and to an investment of such investor if the juridical person is owned or controlled by investors of a non-Party and the denying Party:

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

Article 106  
Sub-Committee on Investment

1. For purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Investment (hereinafter referred to in this Article as "the Sub-Committee") shall be established pursuant to Article 13.
2. The functions of the Sub-Committee shall be:
  - (a) reviewing the implementation and operation of this Chapter;
  - (b) reviewing the reservations set out in the Schedules to Parts 1 and 2 of Annex 7 for the purposes of contributing to the reduction or elimination, where appropriate, of such reservation, and encouraging favorable conditions for investors of both Parties;
  - (c) discussing any issues related to this Chapter, including issues related to taxation measures as expropriation;
  - (d) reporting the findings of the Sub-Committee to the Joint Committee; and
  - (e) performing other functions as may be delegated by the Joint Committee pursuant to Article 13.

Article 107  
Further Negotiation

1. The Parties shall enter into negotiations after the date of entry into force of this Agreement to establish a mechanism for the settlement of an investment dispute between a Party and an investor of the other Party.
2. In the absence of the mechanism for the settlement of an investment dispute between a Party and an investor of the other Party, the resort to international conciliation or arbitration tribunal is subject to mutual consent of the parties to the dispute. This means that the disputing Party may, at its option or discretion, grant or deny its consent in respect of each particular investment dispute and that, in the absence of the express written consent of the disputing Party, an international conciliation or arbitration tribunal shall have no jurisdiction over the investment dispute involved.

Chapter 9  
Movement of Natural Persons

Article 108  
Scope and Coverage

1. This Chapter shall apply to measures affecting the movement of natural persons of a Party who enter into the other Party and who fall under one of the categories in paragraph 1 of Article 110.
2. This Chapter shall not apply to measures regarding nationality or citizenship, or residence or employment on a permanent basis.
3. This Chapter shall not prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, the former Party, including the requiring of visas from nationals of the other Party or such measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of a specific commitment.

Article 109  
Definition

For the purposes of this Chapter, the term "natural person of the other Party" means a natural person who resides in the other Party or elsewhere and who under the law of the other Party is a national of the other Party.

Article 110  
Specific Commitments

1. Each Party shall set out in Annex 8 the specific commitments it undertakes for:
  - (a) short-term business visitors of the other Party;
  - (b) intra-corporate transferees of the other Party;
  - (c) investors of the other Party;
  - (d) natural persons of the other Party who engage in professional services;



- (e) natural persons of the other Party who engage in supplying services, which require technology or knowledge at an advanced level or which require specialized skills belonging to particular fields of industry, on the basis of a contract with public or private organizations in the former Party; and
- (f) natural persons of the other Party who engage in supplying services as nurses or certified careworkers or related activities, on the basis of a contract with public or private organizations in the former Party or on the basis of admission to public or private training facilities in the former Party.

2. Natural persons covered by a specific commitment referred to in paragraph 1 above shall be granted entry and temporary stay in accordance with the terms and conditions of the specific commitment set out in Annex 8, provided that the natural persons comply with immigration laws and regulations applicable to entry and temporary stay which are not inconsistent with the provisions of this Chapter.

3. Neither Party shall impose or maintain any quantitative restriction on the number of natural persons to be granted entry and temporary stay under paragraph 1 above, without prejudice to any right of either Party to regulate the entry and temporary stay of natural persons of the other Party for the orderly implementation of the specific commitments under this Article.

Article 111  
Requirements and Procedures Relating to  
the Movement of Natural Persons

1. Each Party shall establish and make publicly available requirements and procedures for application for a renewal of the period of temporary stay, a change of status of temporary stay or an issuance of a work permit for a natural person of the other Party who has been granted entry and temporary stay under paragraph 2 of Article 110.

2. Each Party shall endeavor to provide, upon request by a natural person of the other Party, information on requirements and procedures for applications referred to in paragraph 1 above.

3. Each Party shall ensure that fees charged by its competent authorities on application referred to in paragraph 1 above do not in themselves represent an unjustifiable impediment to movement of natural persons under this Chapter.

4. Each Party shall endeavor, to the maximum extent possible, to undertake measures to simplify the requirements and facilitate the procedures relating to the movement of natural persons of the other Party. Specific commitments on such measures shall be set out in Annex 8.

#### Article 112 Mutual Recognition

1. For the purposes of smooth movement of natural persons under this Chapter, a Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in the other Party for the purposes of the fulfillment, in whole or in part, of its standards or criteria for the authorization, licensing or certification of natural persons of the other Party.

2. Recognition referred to in paragraph 1 above, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement between the Parties or may be accorded unilaterally.

3. Where a Party recognizes, by agreement or arrangement between the Party and a non-Party or unilaterally, the education or experience obtained, requirements met, or licenses or certifications granted in the non-Party, the Party shall accord the other Party an adequate opportunity to demonstrate that the education or experience obtained, requirements met or licenses or certifications granted in the other Party should also be recognized.

#### Article 113 Sub-Committee on Movement of Natural Persons

1. For purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Movement of Natural Persons (hereinafter referred to in this Chapter as "the Sub-Committee") shall be established pursuant to Article 13.

2. The functions of the Sub-Committee shall be:

- (a) reviewing scope of commitments under this Chapter including examining possibilities of making other commitments on supplying service, that are not included in the specific commitments under paragraph 1 of Article 110 and of mutual interest to both Parties;
  - (b) reviewing the implementation and operation of this Chapter;
  - (c) discussing any issues related to this Chapter;
  - (d) reporting the findings of the Sub-Committee to the Joint Committee; and
  - (e) performing other functions as may be delegated by the Joint Committee pursuant to Article 13.
3. The Sub-Committee shall be composed of representatives of the Governments of the Parties.
4. The Sub-Committee shall meet at least once a year.
5. (a) For purposes of the effective implementation and operation of Section 6 in Annex 8, the Sub-Committee shall establish a Special Sub-Committee on Nurses and Certified Careworkers.
- (b) The functions of the Special Sub-Committee shall be:
- (i) reviewing the implementation and operation of the said Section;
  - (ii) discussing any issues related to the said Section; and
  - (iii) reporting the findings of the Special Sub-Committee, through the Sub-Committee, to the Joint Committee.
- (c) The Special Sub-Committee shall be composed of representatives of the Governments of the Parties.
6. (a) For purposes of the effective implementation and operation of Article 112, the Sub-Committee shall establish a Special Sub-Committee on Mutual Recognition.

- (b) The functions of the Special Sub-Committee shall be:
  - (i) reviewing the implementation and operation of the said Article;
  - (ii) discussing any issue related to the said Article; and
  - (iii) reporting the findings of the Special Sub-Committee, through the Sub-Committee, to the Joint Committee.
- (c) The Special Sub-Committee shall be composed of representatives of the Governments of the Parties.

Article 114  
General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination against the other Party, or a disguised restriction on movement of natural persons between the Parties, nothing in this Chapter shall be construed to prevent the adoption or enforcement by either Party of measures:

- (a) necessary to protect public morals or to maintain public order;
  - Note: The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.
- (b) necessary to protect human, animal or plant life or health; or
- (c) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Chapter including those relating to:
  - (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on services contracts;

- (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; or
- (iii) safety.

Article 115  
Security Exceptions

Nothing in this Chapter shall be construed:

- (a) to require a Party to furnish any information the disclosure of which it considers contrary to its essential security interests;
- (b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:
  - (i) relating to the supply of services as carried out directly or indirectly for the purposes of provisioning a military establishment;
  - (ii) relating to the implementation of national policies or international agreements respecting the non-proliferation of weapons, or relating to fissionable and fusionable materials or the materials from which they are derived; or
  - (iii) taken in time of war or other emergency in international relations; or
- (c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Article 116  
Review

The Parties shall undertake a review of the implementation and operation of, scope of commitments under, and any issues related to, this Chapter, taking into account the report of the Sub-Committee, every five (5) years after the entry into force of this Agreement and further whenever agreed by the Parties.

Chapter 10  
Intellectual Property

Article 117  
General Provisions

1. The Parties shall ensure adequate and non-discriminatory protection of intellectual property, efficient and transparent administration of intellectual property protection system, and adequate and effective enforcement of intellectual property rights against infringement, counterfeiting and piracy, in accordance with the provisions of this Chapter and the international agreements to which both Parties are parties.

2. The Parties, recognizing the growing importance of intellectual property for promoting economic competitiveness in the knowledge-based economy, and of intellectual property protection in this new environment, shall develop and strengthen their cooperation in the field of intellectual property.

3. Intellectual property referred to in this Chapter shall cover all categories of intellectual property:

- (a) that are subject of Articles 123 through 128; and/or
- (b) that are under the TRIPS Agreement and/or the relevant international agreements referred to in the TRIPS Agreement.

Article 118  
Definitions

For the purposes of this Chapter:

- (a) the term "Paris Convention" means the Stockholm Act of 1967 of the Paris Convention for the Protection of Industrial Property;

- (b) the term "rights management information" means information which identifies a work, performance or phonogram; the author of the work, the performer of the performance or the producer of the phonogram; the owner of any right in the work, performance or phonogram; or information about the terms and conditions of the use of the work, performance or phonogram; and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work, a fixed performance or a phonogram or appears in connection with the communication or making available of a work, a fixed performance or a phonogram to the public; and
- (c) the term "TRIPS Agreement" means the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement.

Article 119  
Cooperation

1. The areas and forms of cooperation referred to in paragraph 2 of Article 117 may include, but not be limited to:

- (a) exchange of information and experts in the field of intellectual property;
- (b) strengthening the intellectual property protection system;
- (c) promotion of mutual understanding of intellectual property protection system of each Party;
- (d) promotion of public awareness on intellectual property;
- (e) organizing international symposiums, workshops and fairs; and
- (f) technical assistance to be agreed upon between the Parties in the development of information and communications technology-related projects for efficient administration of intellectual property protection system.

2. The implementation of such cooperation shall be subject to the availability of appropriated funds and the applicable laws and regulations of each Party.

3. Costs of such cooperation shall be borne in as an equitable manner as possible between the Parties through efficient and effective utilization of resources.

4. The dispute settlement procedures provided for in Chapter 15 shall not apply to this Article. Any differences between the Parties as to the implementation of this Article may be, upon agreement between the Parties, referred to the Sub-Committee on Intellectual Property for appropriate action.

#### Article 120

##### Streamlining and Harmonization of Procedural Matters

1. For the purposes of providing efficient administration of intellectual property protection system, each Party shall endeavor to streamline its administrative procedures concerning intellectual property.

2. No Party may require the authentication of signatures or other means of self-identification on documents to be submitted to the competent authority of the Party, including applications, translations into a language accepted by such authority of any earlier application whose priority is claimed, powers of attorney and certifications of assignment, in the course of application procedure or other administrative procedures on patents, utility models, industrial designs, or trademarks except as provided in paragraph 3 below.

3. A Party may require as exceptions to paragraph 2 above:

- (a) the authentication of signatures or other means of self-identification, if the law of the Party so provides, where the signatures or other means of self-identification concern the surrender of a patent or a registration of utility models, industrial designs or trademarks; and
- (b) the submission of evidence if there is reasonable doubt as to the authenticity of signatures or other means of self-identification on documents submitted to the competent authority of the Party. Where the competent authority notifies the person that evidence is required, the notification shall state the substantial reason for requiring the submission.



4. Where the certification of a translation of an earlier application whose priority is claimed is required by a Party under its laws and regulations, such a requirement shall be deemed to be satisfied by the submission of a written statement by the translator that, to the best of his knowledge, the translation of the earlier application is faithful and accurate.

5. Applications for and registrations of relevant intellectual property rights and publications thereof shall be classified in accordance with the laws and regulations of each Party and, to the extent possible, in conformity with the international patent classification system and international classification system of goods and services for the purposes of the registration of marks under existing international intellectual property agreements administered under the auspices of the World Intellectual Property Organization.

#### Article 121 Transparency

For the purposes of further promoting transparency in the administration of its intellectual property protection system, each Party shall, in accordance with its laws and regulations, take appropriate measures to:

- (a) publish information on applications for and grants of patents, and applications for registrations of and registrations of utility models, industrial designs, trademarks, layout-designs of integrated circuits and new varieties of plants, and make easily available to the public information contained in the files thereof held by the competent authority; and
- (b) make easily available to the public information on intellectual property protection system including information on its efforts to provide effective enforcement of intellectual property rights.

#### Article 122 Promotion of Public Awareness Concerning Protection of Intellectual Property

The Parties shall take necessary measures to enhance public awareness of protection of intellectual property including educational and dissemination projects on the use of intellectual property as well as on the enforcement of intellectual property rights.

Article 123  
Patents

Each Party shall, in accordance with its laws and regulations, ensure that any applicant for a patent may file a request to the competent authority that his application be examined promptly.

Note: For the purpose of this Article, the term "competent authority" means, for the Philippines, the Director of the Bureau of Patents of the Intellectual Property Office.

Article 124  
Industrial Designs

Each Party shall provide for the protection of industrial designs in accordance with the TRIPS Agreement.

Article 125  
Trademarks for Goods and Services

Each Party shall provide for the protection of trademarks in accordance with the Paris Convention and the TRIPS Agreement.

Article 126  
Copyright and Related Rights

1. Each Party shall provide to authors, performers and producers of phonograms the exclusive right of authorizing the making available to the public of their works, performances fixed in phonograms and phonograms, respectively, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

2. Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors, performers or producers of phonograms in connection with the exercise of their rights under the laws and regulations of the Party and that restrict acts, in respect of their works, performances or phonograms, which are not authorized by the authors, performers or producers of phonograms concerned or permitted by the laws and regulations of the Party.

3. Each Party shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of copyrights and related rights:

- (a) to remove or alter any electronic rights management information without authority;
- (b) to distribute, import for distribution, broadcast, communicate or make available to the public, without authority, works, copies of works, performances, copies of fixed performances or phonograms knowing that electronic rights management information has been removed or altered without authority.

Article 127  
New Varieties of Plants

Each Party recognizes the importance of providing a system of protection of new varieties of plants and shall, within its capabilities, endeavor to increase the number of plant genera and species that can be protected under its laws and regulations. In this regard, each Party shall consider the concerns of the other Party.

Article 128  
Unfair Competition

1. Any act of competition contrary to honest practices in industrial or commercial matters constitutes an act of unfair competition.

2. Each Party shall, in accordance with its laws and regulations, ensure that any acts of unfair competition, which shall include, but not be limited to, the following acts, are prohibited:

- (a) acts of selling goods which imitate the appearance of another person's goods; and
- (b) acts of such a nature as to create confusion by any means whatever with the services of a competitor.

3. Each Party shall ensure in its laws and regulations adequate and effective protection of undisclosed information in accordance with the TRIPS Agreement.

Article 129  
Enforcement

1. Each Party shall, in accordance with its laws and regulations consistent with the TRIPS Agreement, provide for procedures concerning the suspension by the customs authority of the release of infringing goods in cases of infringement of patents, utility models, industrial designs, trademarks or copyrights and related rights.

2. Each Party shall ensure that the right holder of intellectual property has the right to claim against the infringer damages adequate to compensate for the injury the right holder has suffered because of an infringement of that person's intellectual property right by an infringer who knowingly, or with reasonable grounds to know, engaged in infringing activity.

3. Each Party shall provide for criminal procedures and penalties to be applied in cases of wilful trademark counterfeiting, copyright piracy, infringement of right relating to new varieties of plants or infringement or repetition of infringement, as the case may be, of patents, utility models, industrial designs or layout-designs of integrated circuits on a commercial scale. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, consistently with the level of penalties applied for crimes of a corresponding gravity as may be provided for in the laws and regulations of each Party.

Article 130  
Sub-Committee on Intellectual Property

1. For purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Intellectual Property (hereinafter referred to in this Article as "the Sub-Committee") shall be established pursuant to Article 13.

2. The functions of the Sub-Committee shall be:

- (a) reviewing the implementation and operation of this Chapter;
- (b) discussing the following issues, as appropriate, related to intellectual property with a view to enhancing protection of intellectual property and enforcement of intellectual property rights:

- (i) scope of patentable inventions and of prior art;
  - (ii) translation requirements of priority documents;
  - (iii) scope of registrable industrial designs;
  - (iv) protection of well-known trademarks;
  - (v) international system for trademark registration;
  - (vi) liability of internet service providers;
  - (vii) collective management organizations for copyright and related rights;
  - (viii) protection of new varieties of plants;
  - (ix) adequate and effective enforcement; and
  - (x) fair and equitable enforcement procedures, including procedures for border measures;
- (c) reporting the findings of the Sub-Committee to the Joint Committee;
  - (d) making appropriate recommendations, as needed, to the Joint Committee; and
  - (e) performing other functions as may be delegated by the Joint Committee pursuant to Article 13.

3. The Sub-Committee shall meet at such venue and times as may be agreed by the Parties.

Chapter 11  
Government Procurement

Article 131  
Procurement Principles

The Parties recognize that it is important for a Party to accord national treatment and most-favored-nation treatment to goods, services and suppliers of the other Party with respect to the measures regarding government procurement, and that it is desirable to provide transparency of the measures regarding government procurement, with a view to achieving greater liberalization and expansion of trade between the Parties. The Parties also recognize the need to take into account the development, financial and trade needs of the Parties. Each Party shall ensure a fair and effective implementation of the measures regarding government procurement.

Article 132  
Negotiations on Non-discrimination

In the event that a Party offers a non-Party any advantages of access to its government procurement market or any advantageous treatment concerning the measures regarding government procurement, the former Party shall consent to enter into negotiations with the other Party with a view to extending these advantages or advantageous treatment to the other Party.

Article 133  
Sub-Committee on Government Procurement

1. For purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Government Procurement (hereinafter referred to in this Article as "the Sub-Committee") shall be established pursuant to Article 13.
2. The functions of the Sub-Committee shall be:
  - (a) exchanging information on the measures regarding government procurement of each Party;
  - (b) analyzing available information on each Party's government procurement market;
  - (c) discussing any issues relating to government procurement, including:

- (i) possibility of according national treatment and most-favored-nation treatment to goods, services and suppliers of the other Party;
  - (ii) enhancement of transparency;
  - (iii) fair and effective implementation of the measures regarding government procurement including challenge procedures; and
  - (iv) consistency of each Party's measures regarding government procurement with international principles on government procurement, such as, but not limited to, the Agreement on Government Procurement in Annex 4 to the WTO Agreement (hereinafter referred to in this Chapter as "the GPA");
- (d) reporting the findings of the Sub-Committee to the Joint Committee; and
  - (e) performing other functions as may be delegated by the Joint Committee pursuant to Article 13.

3. The Sub-Committee shall meet at such venue as may be agreed by the Parties and shall make efforts to meet once a year.

#### Article 134 Further Negotiations

The Parties shall enter into negotiations at the earliest possible time, not later than five (5) years after the date of the entry into force of this Agreement, with a view to liberalizing their respective government procurement markets. In such negotiations, the Parties shall review all aspects of their measures regarding government procurement and shall consider the following factors:

- (a) according national treatment and most-favored-nation treatment to goods, services and suppliers of the other Party;
- (b) enhancement of transparency;
- (c) consistency of each Party's measures regarding government procurement with international principles on government procurement, such as, but not limited to, the GPA; and

- (d) other matters necessary for a fair and effective implementation of the measures regarding government procurement including challenge procedures.

Chapter 12  
Competition

Article 135  
Promotion of Competition  
by Addressing Anti-competitive Activities

1. Each Party shall, in accordance with its applicable laws and regulations, take measures which it considers appropriate to promote competition by addressing anti-competitive activities, in order to facilitate trade and investment flows between the Parties and the efficient functioning of its market. Any such measures shall be taken in conformity with the principles of transparency, non-discrimination and procedural fairness.

2. Each Party shall, when necessary, review and improve or adopt laws and regulations to effectively promote competition by addressing anti-competitive activities.

Article 136  
Cooperation on Promoting Competition  
by Addressing Anti-competitive Activities

1. The Parties shall, in accordance with their respective laws and regulations, cooperate in the field of promoting competition by addressing anti-competitive activities, subject to their respective available resources.

2. The details and procedures of cooperation under this Article shall be specified in the Implementing Agreement.

Article 137  
Non-Application of Chapter 15

The dispute settlement procedures provided for in Chapter 15 shall not apply to this Chapter.



Chapter 13  
Improvement of the Business Environment

Article 138  
Principles and Cooperation

1. Each Party shall, in accordance with its laws and regulations, take appropriate measures to further improve the business environment for the persons of the other Party conducting their business activities in the Area of the former Party.
2. The Parties shall, in accordance with their respective laws and regulations, promote cooperation to further improve the business environment in the Area of the Parties and take necessary measures including establishing such institutions as provided for in Articles 139, 140 and 141.

Article 139  
Sub-Committee on Improvement of the Business Environment

1. For purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Improvement of the Business Environment (hereinafter referred to in this Chapter as "the Sub-Committee") shall be established pursuant to Article 13.
2. The functions of the Sub-Committee shall be:
  - (a) supervising the activities of each Consultative Group on Improvement of the Business Environment (hereinafter referred to in this Chapter as "Consultative Group") to be established under Article 140;
  - (b) addressing and resolving issues that the Sub-Committee considers appropriate taking into account, as necessary, the findings reported by each Consultative Group and each Liaison Office on Improvement of the Business Environment (hereinafter referred to in this Chapter as "Liaison Office") to be designated under Article 141;
  - (c) reporting the findings and making recommendations to the Parties including the measures to be taken by the Parties, regarding such functions as referred to in subparagraphs (a) and (b) above and relevant issues. Such recommendations shall be taken into consideration by the Parties;

- (d) where appropriate, reviewing the measures taken by the Parties in relation to the recommendations referred to in subparagraph (c) above;
- (e) making available to those concerned, in an appropriate manner, the recommendations referred to in subparagraph (c) above and the results of the review referred to in subparagraph (d) above, to the extent allowed by the respective laws and regulations of the Parties;
- (f) reporting the findings and recommendations referred to in subparagraph (c) above and other findings in relation to the implementation and operation of this Chapter to the Joint Committee as fully and expeditiously as possible;
- (g) establishing its rules and procedures; and
- (h) performing other functions as may be delegated by the Joint Committee pursuant to Article 13.

3. The Sub-Committee shall cooperate with other Sub-Committees in an appropriate manner with a view to avoiding unnecessary duplication of works with those of other Sub-Committees established under this Agreement.

4. The composition, frequency of meetings and other details of the Sub-Committee shall be set forth in the Implementing Agreement.

Article 140  
Consultative Group  
on Improvement of the Business Environment

1. The Sub-Committee shall establish a Consultative Group in the Area of each Party.

2. The composition, functions, and frequency of meetings of the Consultative Group shall be set forth in the Implementing Agreement.

Article 141  
Liaison Office on Improvement of the Business Environment

1. Each Party shall designate and maintain a Liaison Office in the Area of the Party.

2. The functions and other details of the Liaison Office shall be set forth in the Implementing Agreement.

Article 142  
Resolution of Issues through Diplomatic Channels

1. A Party may, through diplomatic channels, request the other Party to take measures for resolving issues which the requesting Party considers adversely affecting the business activities of its persons in the Area of the requested Party.

2. The requested Party shall promptly respond to such request, and shall, where warranted, endeavor to take measures to resolve such issues in accordance with its applicable laws and regulations. The requested Party shall inform the requesting Party of the measures it has taken.

Article 143  
Non-Application of Chapter 15

The dispute settlement procedures provided for in Chapter 15 shall not apply to this Chapter.

Chapter 14  
Cooperation

Article 144  
Basic Principles

The Parties shall promote cooperation under this Agreement for their mutual benefits in order to facilitate and liberalize trade and investment between the Parties in order to assist development goals and to promote the well-being of the peoples of the Parties. For this purpose, the Parties shall cooperate between the Governments of the Parties and, where necessary and appropriate, encourage and facilitate cooperation between parties, one or both of whom are entities other than the Governments of the Parties, in the following fields:

- (a) Human Resource Development
- (b) Financial Services
- (c) Information and Communications Technology
- (d) Energy and Environment
- (e) Science and Technology
- (f) Trade and Investment Promotion
- (g) Small and Medium Enterprises

- (h) Tourism
- (i) Transportation
- (j) Road Development

Article 145  
Areas and Forms

The areas, forms, and other details of each field of cooperation under this Chapter may be set forth in the Implementing Agreement.

Article 146  
Implementation

1. The implementation of cooperation under this Chapter shall be subject to the availability of appropriated funds and the applicable laws and regulations of each Party.
2. Costs of cooperation under this Chapter shall be borne in as an equitable manner as possible between the Parties through efficient and effective utilization of resources.

Article 147  
Sub-Committee on Cooperation

1. For purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Cooperation (hereinafter referred to in this Article as "the Sub-Committee") shall be established pursuant to Article 13.
2. The functions of the Sub-Committee shall be:
  - (a) exchanging views and information on cooperation in each field and identifying ways of further cooperation between the Parties;
  - (b) monitoring, reviewing and discussing issues concerning the effective implementation of this Chapter;
  - (c) reporting the findings and actions taken by the Sub-Committee to the Joint Committee regarding issues relating to the implementation of this Chapter;
  - (d) supervising the functions and activities of the working groups to be established pursuant to the paragraph 6 below;

- (e) establishing its own rules and procedures;
- (f) discussing any issues related to this Chapter;  
and
- (g) performing other functions as may be delegated by  
the Joint Committee pursuant to Article 13.

3. The Sub-Committee shall respect existing consultation mechanisms between the Parties for Official Development Assistance and other existing cooperation schemes and, as appropriate, share information with such mechanisms to ensure effective and efficient implementation of cooperative activities.

4. The Sub-Committee shall be composed of representatives of the Governments of the Parties. The Sub-Committee may invite representatives of relevant entities other than the Governments of the Parties as resource persons with necessary expertise relevant to the issues to be addressed.

5. The Sub-Committee shall hold its inaugural meeting within one (1) year after this Agreement enters into force. Subsequent meetings of the Sub-Committee shall be held at such frequency as the Parties may agree on.

6. The Sub-Committee may establish a working group for each field of cooperation under the Sub-Committee. The functions, composition and other details of the working groups may be set forth in the Implementing Agreement.

Article 148  
Non-Application of Chapter 15

The dispute settlement procedures provided for in Chapter 15 shall not apply to this Chapter.

Chapter 15  
Dispute Avoidance and Settlement

Article 149  
Scope and Coverage

1. Unless otherwise provided for in this Agreement, this Chapter shall apply with respect to the avoidance and settlement of disputes between the Parties concerning the interpretation or application of this Agreement.

2. Nothing in this Chapter shall prejudice any rights of the Parties to have recourse to dispute settlement procedures available under any other international agreement to which both Parties are parties.

3. Notwithstanding paragraph 2 above, once a dispute settlement procedure has been initiated under this Chapter or under any other international agreement to which both Parties are parties with respect to a particular dispute, that procedure shall be used to the exclusion of any other procedure for that particular dispute. However, this shall not apply if substantially separate and distinct rights or obligations under different international agreements are in dispute.

4. Paragraph 3 above shall not apply where the Parties expressly agree to the use of more than one (1) dispute settlement procedure in respect of a particular dispute.

5. Where an infringement of the obligations assumed under this Agreement constitutes an infringement of the obligations assumed under the WTO Agreement, the Parties shall give priority consideration to having recourse to the dispute settlement procedures under the WTO Agreement.

Article 150  
General Consultations  
for the Avoidance and Settlement of Disputes

1. For the purposes of avoiding disputes, a Party may request in writing consultations with the other Party with regard to any matter on the interpretation or application of this Agreement.

2. When a Party requests consultations pursuant to paragraph 1 above, the other Party shall afford adequate opportunity for consultations and shall reply promptly to the request and enter into consultations in good faith.

3. The Parties shall make every effort to avoid possible disputes through consultations.

Article 151  
Good Offices, Conciliation or Mediation

1. Good offices, conciliation or mediation may be requested in writing at any time by either Party. They may begin at any time if the Parties agree. The use of good offices, conciliation or mediation may be terminated at any time at the request of either Party. While good offices, conciliation or mediation are in progress, the requesting Party of the consultations referred to in paragraph 1 of Article 152 shall not request the establishment of an arbitral tribunal pursuant to paragraph 1 of Article 153.

2. If the Parties agree, good offices, conciliation or mediation may continue while proceedings of the arbitral tribunal provided for in this Chapter are in progress.

Article 152  
Special Consultations for Dispute Settlement

1. For the purposes of settling disputes, either Party may make a request in writing for consultations to the other Party if the requesting Party considers that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired, as a result of failure of the requested Party to carry out its obligations, or as a result of the application by the requested Party of measures which conflict with its obligations, under this Agreement.

2. Unless the Parties agree otherwise, the requested Party shall:

- (a) enter into consultations within thirty (30) days after the date of receipt of the request for consultations made pursuant to paragraph 1 above; or
- (b) enter into consultations within ten (10) days after the date of receipt of the request for consultations made pursuant to paragraph 1 above if the procedure provided for in Article 150 was utilized in respect of the same dispute and sixty (60) days or more have elapsed from the date of the initiation of consultations under that Article.

3. The Parties shall make every effort to reach a mutually satisfactory resolution through consultations.

Article 153  
Establishment of Arbitral Tribunals

1. Unless otherwise agreed by the Parties, if the Parties fail to resolve a dispute through consultations provided for in Article 152, either Party may request the establishment of an arbitral tribunal in respect of that dispute:

- (a) after ninety (90) days, which may be extended up to one hundred eighty (180) days upon the request of the requested Party, from the date on which the requested Party receives the request for consultations made pursuant to subparagraph 2(a) of Article 152; or
- (b) after sixty (60) days, which may be extended up to one hundred fifty (150) days upon the request of the requested Party, from the date on which the requested Party receives the request for consultations made pursuant to subparagraph 2 (b) of Article 152.

2. Any request to establish an arbitral tribunal pursuant to this Article shall identify:

- (a) the legal basis of the complaint including the provisions of this Agreement alleged to have been breached and any other relevant provisions; and
- (b) the factual basis for the complaint.

3. Each Party shall, within thirty (30) days after the date of receipt of the request for the establishment of an arbitral tribunal, appoint one (1) arbitrator who may be its national and propose up to three (3) candidates to serve as the third arbitrator who shall be the chair of the arbitral tribunal (hereinafter referred to in this Chapter as "the chair"). The chair shall not be a national of either Party, nor have his or her usual place of residence in either Party, nor be employed by either Party.

4. The Parties shall, in consultation with their appointed arbitrators, if necessary, agree on and appoint the chair within sixty (60) days after the date of receipt of the request for the establishment of an arbitral tribunal, taking into account the candidates proposed pursuant to paragraph 3 above.



5. If the Parties fail to agree on and appoint the chair pursuant to paragraph 4 above, the chair shall be chosen by lot from the candidates proposed pursuant to paragraph 3 above within seven (7) days after the expiry of the period provided for in paragraph 4 above.

6. The arbitral tribunal should be composed of arbitrators with international legal expertise or relevant technical knowledge.

#### Article 154 Functions of Arbitral Tribunals

1. The arbitral tribunal established pursuant to Article 153:

- (a) should consult with the Parties as appropriate and provide adequate opportunities for the development of a mutually satisfactory resolution;
- (b) shall make its award in accordance with this Agreement and applicable rules of international law, including customary international law;
- (c) shall set out, in its award, its findings of law and fact, together with the reasons therefore; and
- (d) may, apart from giving its findings, include in its award suggested implementation options for the Parties to consider in conjunction with Article 157.

2. The award of the arbitral tribunal shall be final and binding on the Parties.

3. The arbitral tribunal may seek, from the Parties, such relevant information as it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by an arbitral tribunal for such information as the arbitral tribunal considers necessary and appropriate.

4. The arbitral tribunal may seek information from any relevant source and may consult experts to obtain their opinion on certain aspects of the matter. With respect to factual issues concerning a scientific or other technical matter raised by a Party, the arbitral tribunal may request advisory reports in writing from an expert or experts. The arbitral tribunal may, at the request of a Party or on its own initiative, select, in consultation with the Parties, no fewer than two (2) scientific or technical experts who shall assist the arbitral tribunal throughout its proceedings, but who shall not have the right to vote in respect of any decision to be made by the arbitral tribunal, including its award.

5. The award of the arbitral tribunal shall be drafted without the presence of the Parties, and in the light of the information provided and the statements made.

6. The arbitral tribunal shall, within ninety (90) days after the date of its establishment, submit to the Parties its draft award, including both descriptive part and its findings and conclusions, for the purposes of enabling the Parties to review precise aspects of the draft award, unless the dispute is settled otherwise or the proceeding of the arbitral tribunal is terminated in accordance with Article 156. When the arbitral tribunal considers that it cannot submit to the Parties its draft award within the aforementioned ninety (90) day period, it may extend that period with the consent of the Parties. A Party may submit comments in writing to the arbitral tribunal on the draft award within fifteen (15) days after the date of receipt of the draft award.

7. The arbitral tribunal shall issue its award within thirty (30) days after the date of receipt of the draft award by the Parties.

8. The arbitral tribunal shall endeavor to make its decisions, including its award, by consensus but may also make such decisions, including its award, by majority vote should a consensus not be reached.

#### Article 155 Proceedings of Arbitral Tribunals

1. The arbitral tribunal shall meet in closed session.

2. The deliberations of the arbitral tribunal, the documents submitted to it and the draft award referred to in paragraph 6 of Article 154 shall be kept confidential.

3. Notwithstanding paragraph 2 above, either Party may make public statements as to its views regarding the dispute, but shall treat as confidential, information and written submissions submitted by the other Party to the arbitral tribunal which that other Party has designated as confidential. Where a Party has provided information or written submissions designated to be confidential, the other Party may request a non-confidential summary of the information or written submissions which may be disclosed publicly. The Party to whom such a request is made may agree to such a request and submit such a summary, or refuse the request without needing to ascribe any reasons or justification.

4. The Parties shall be given the opportunity to attend any of the presentations, statements or rebuttals in the proceeding and to submit any relevant information, including rulings of the Dispute Settlement Body of the World Trade Organization. Any information or written submissions submitted by a Party to the arbitral tribunal, including any comments on the descriptive part of the draft award and responses to questions put by the arbitral tribunal, shall be made available to the other Party.

5. Unless otherwise agreed by the Parties, English shall be the language used in the proceedings of, and submissions to, the arbitral tribunal.

#### Article 156 Suspension and Termination of Proceedings

Even if the arbitral tribunal has been established and the proceedings are in progress, the Parties may agree to terminate, or suspend, the proceedings at any time by jointly so notifying the chair.

Article 157  
Implementation of Award

1. The award of the arbitral tribunal issued pursuant to Article 154 (hereinafter referred to in this Article as "the original award") shall be complied with promptly. A Party which is required by the arbitral tribunal to comply with its award (hereinafter referred to in this Article as "the implementing Party") shall, within forty five (45) days after the date of issuance of the original award, notify in writing the other Party (hereinafter referred to in this Article as "the other Party") as to the period which it assesses to be reasonable and necessary in order to implement the original award. The other Party may request consultations if it considers the period notified to be unacceptable, in which case the Parties shall enter into consultations within thirty (30) days after the date of receipt of the request.

2. If the implementing Party considers it impracticable to comply with the original award within the implementation period as determined pursuant to paragraph 1 above, the implementing Party shall no later than the expiry of that implementation period enter into consultations with the other Party, with a view to developing mutually acceptable compensation. If no satisfactory compensation has been agreed within forty five (45) days after the date of expiry of that implementation period, the other Party may notify the implementing Party that it intends to suspend the application to the implementing Party of the obligations of the other Party under this Agreement.

3. If the other Party considers that the measures taken by the implementing Party to comply with the original award do not comply with the original award, it may request consultations, in which case the Parties shall promptly enter into consultations.

4. Either Party may refer matters arising from the implementation of the original award to an arbitral tribunal if:

- (a) consultations were initiated under paragraph 1 above, and the Parties fail to reach agreement on the period for implementation within thirty (30) days after the date of receipt of the request; or

- (b) consultations were initiated under paragraph 3 above, and the Parties fail to resolve the matter, and at least forty five (45) days have elapsed since the date of the expiration of the period for implementation provided for in paragraph 1 above.

5. If the arbitral tribunal to which the matter is referred pursuant to subparagraph 4(b) above confirms that the implementing Party has failed to comply with the original award within the implementation period as determined pursuant to paragraph 1 or subparagraph 4(a) above, the other Party may, within thirty (30) days after the date of such confirmation by the arbitral tribunal, notify the implementing Party that it intends to suspend the application to the implementing Party of the obligations of the other Party under this Agreement.

6. Suspension of the application of obligations pursuant to paragraph 2 or 5 above may only be implemented at least thirty (30) days after the date of the notification in accordance with that paragraph. Such suspension:

- (a) shall not be effected if, in respect of the dispute to which the suspension relates, consultations, or proceedings before an arbitral tribunal are in progress;
- (b) shall be temporary, and shall be discontinued when the Parties reach a mutually satisfactory resolution or where compliance with the original award is effected;
- (c) shall be restricted to the level of nullification or impairment that is attributable to the failure to comply with the original award; and
- (d) shall be restricted to the same sector or sectors to which the nullification or impairment relates, unless it is not practicable or effective to suspend obligations in such sector or sectors.

7. If the implementing Party considers that the requirements in paragraph 2, 5 or 6 above have not been met, it may request consultations with the other Party. The other Party shall enter into consultations within ten (10) days after the date of receipt of the request. If the Parties fail to resolve matters within thirty (30) days after the date of receipt of the request for consultations pursuant to this paragraph, either Party may refer the matter to an arbitral tribunal.

8. The arbitral tribunal that is established for the purposes of this Article shall, wherever possible, have as its arbitrators, the arbitrators of the original arbitral tribunal. If this is not possible, then the arbitrators to the arbitral tribunal that is established for the purposes of this Article shall be appointed pursuant to paragraphs 3 through 6 of Article 153. Unless the Parties agree to a different period, such arbitral tribunal shall issue its award within sixty (60) days after the date when the matter is referred to it. The award of the arbitral tribunal established under this Article shall be final and binding on the Parties.

Article 158  
Expenses

Unless the Parties agree otherwise, the expenses of the arbitral tribunal, including the remuneration of its arbitrators, shall be borne by the Parties in equal shares.

Article 159  
Rules of Procedure

Unless the Parties agree otherwise, the details and procedures for the arbitral tribunal provided for in this Chapter shall be in accordance with the Rules of Procedure to be adopted within the first year of the date of entry into force of this Agreement and to be modified, if necessary, by the Joint Committee.

Chapter 16  
Final Provisions

Article 160  
Table of Contents and Headings

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

Article 161  
General Review

The Parties shall undertake a general review of the Agreement and its implementation and operation in 2011 and every five (5) years thereafter, unless otherwise agreed by both Parties.

Article 162  
Annexes and Notes

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

Article 163  
Amendment

1. This Agreement may be amended by agreement between the Parties. Such amendment shall be approved by the Parties in accordance with their respective legal procedures. The amendment shall enter into force on the date to be agreed on by the Parties and by means of diplomatic notes exchanged between the Governments of the Parties informing each other that their respective legal procedures necessary for its entry into force have been completed.

2. If the amendments relate only to the following areas, the amendments may be made by diplomatic notes exchanged between the Governments of the Parties:

- (a) Annex 2 referred to in Chapter 3 Product Specific Rules;
- (b) Annex 3 referred to in Chapter 3 Minimum Data Requirement for Certificate of Origin; or
- (c) Part 2 of Annex 4 referred to in Chapter 6 Sectoral Annex in relation to Article 61.

Article 164  
Entry into Force

This Agreement shall enter into force on the thirtieth day after the date on which the Governments of the Parties exchange diplomatic notes informing each other that their respective legal procedures necessary for entry into force of this Agreement have been completed. It shall remain in force unless terminated as provided for in Article 165.

Article 165  
Termination

Either Party may terminate this Agreement by giving, through diplomatic channels, one-year advance notice in writing to the other Party.

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

DONE at Helsinki on this ninth day of September, 2006 in duplicate in the English language.

For Japan:

小泉純一郎

For the Republic of  
the Philippines:

Gloria M. Arroyo



Annex 5 referred to in Chapter 7  
Financial Services

Section 1  
Scope and Definitions

1. This Annex applies to measures affecting the supply of financial services. Reference to the supply of a financial service in this Annex shall mean the supply of a service as defined in subparagraph (t) of Article 71.

2. (a) For the purposes of this Annex:

(i) the term "financial service" means any service of a financial nature offered by a financial service supplier of a Party. Financial services include all insurance and insurance-related services, and all banking and other financial services (excluding insurance). Financial services include the following activities:

(aa) Insurance and Insurance-Related Services

(A) direct insurance (including co-insurance):

(AA) life

(BB) non-life;

(B) reinsurance and retrocession;

(C) insurance intermediation, such as brokerage and agency;

(D) services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services;

(bb) Banking and Other Financial Services  
(Excluding Insurance)

(A) acceptance of deposits and other repayable funds from the public;

(B) lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

- (C) financial leasing;
- (D) all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;
- (E) guarantees and commitments;
- (F) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:
  - (AA) money market instruments (including cheques, bills, certificates of deposits);
  - (BB) foreign exchange;
  - (CC) derivative products including, but not limited to, futures and options;
  - (DD) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;
  - (EE) transferable securities;
  - (FF) other negotiable instruments and financial assets, including bullion;
- (G) participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;
- (H) money broking;
- (I) asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

- (J) settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;
  - (K) provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services; and
  - (L) advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (A) through (K) above, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;
- (ii) the term "financial service supplier" means any natural person or juridical person of a Party wishing to supply or supplying financial services, but the term "financial service supplier" does not include a public entity;
  - (iii) the term "public entity" means:
    - (aa) a government, a central bank or a monetary authority of a Party, or an entity owned or controlled by a Party, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or
    - (bb) a private entity, performing functions normally performed by a central bank or monetary authority, when exercising those functions;
  - (iv) for the purposes of subparagraph (n) of Article 71, the term "services supplied in the exercise of governmental authority" means the following:

- (aa) activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;
  - (bb) activities forming part of a statutory system of social security or public retirement plans; and
  - (cc) other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the Government.
- (b) For the purposes of subparagraph (n) of Article 71, if a Party allows any of the activities referred to in subparagraphs (a) (iv) (bb) or (cc) above to be conducted by its financial service suppliers in competition with a public entity or a financial service supplier, the term "services" shall include such activities.
  - (c) Subparagraph (o) of Article 71 shall not apply to services covered by this Annex.
  - (d) Subparagraph (b) of Article 2 shall not apply to the term "existing" in the description in the subsector "Banking and other financial services (excluding insurance)" in Part 1B of Annex 6.

## Section 2 Domestic Regulation

1. Notwithstanding any provisions of Chapter 7, a Party shall not be prevented from taking measures for prudential reasons, including measures for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of Chapter 7, they shall not be used as a means of avoiding the Party's commitments or obligations under Chapter 7.

2. Nothing in Chapter 7 shall be construed to require a Party to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

### Section 3 Recognition

1. A Party may recognize the prudential measures of any international regulatory body or non-Party in determining how the Party's measures relating to financial services shall be applied. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the international regulatory body or non-Party concerned or may be accorded autonomously.

2. A Party that is a party to such an agreement or arrangement referred to in paragraph 1 above, whether future or existing, shall afford adequate opportunity for the other Party to negotiate its accession to such agreements or arrangements, or to negotiate comparable ones with it, under circumstances in which there would be equivalent regulation, oversight, implementation of such regulation, and if appropriate, procedures concerning the sharing of information between the parties to the agreement or arrangement. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that such circumstances exist.

### Section 4 Dispute Settlement

Arbitral tribunals established under Article 153 for disputes on prudential issues and other financial matters shall have the necessary expertise relevant to the specific financial service under dispute.

### Section 5 New Financial Services

1. Each Party shall examine objectively applications by financial service suppliers of the other Party to offer in the Area of the examining Party any new financial service. The provision of the new financial service is subject to approval, on a non-discriminatory basis, of the examining Party in accordance with relevant licensing, institutional, juridical form and other requirements of the examining Party.

2. For the purposes of paragraph 1 above, the term "new financial service" shall include services related to existing and new products or services, or the manner in which such products or services are delivered, that are not supplied in the Area of the examining Party but are supplied in the Area of the other Party.

Annex 6 referred to in Chapter 7  
Schedule of Specific Commitments  
and List of Most-Favored-Nation Treatment Exemptions

Part 1  
Schedule of Specific Commitments in relation to  
Articles 72, 73, 74 and 75

1A: Schedule of Japan

Explanatory Notes

1. Alphabets indicated against individual sectors or subsectors and numbers in brackets are references to the Services Sectoral Classification List (GATT Document MTN.GNS/W/120, dated 10 July 1991) and the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991). These alphabetical and numerical divisions are indicated to enhance the clarity in the description of specific commitments, but shall not be construed as being a part of the specific commitments.
2. The scheduling of specific commitments follows the Guidelines for the Scheduling of Specific Commitments (WTO Document S/L/92, dated 28 March 2001). The Guidelines shall not, however, be construed as being legally binding.
3. The modes of supply 1), 2), 3) and 4) indicated in this Schedule correspond respectively to the supply of services defined in (i), (ii), (iii) and (iv) of subparagraph (t) of Article 71.
4. The entry "Unbound\*" means unbound due to lack of technical feasibility. The entry of "SS" in the sector or subsector under paragraph 3 of Article 75 shall not prevent Japan from maintaining nor adopting any measure with respect to the modes where "Unbound\*" is entered.
5. The entry of "SS\*" means that paragraph 3 of Article 75 shall apply only to modes 1), 2) and 3) with respect to the sectors or subsectors where specific commitments are undertaken under Articles 72 and 73. The entry of "SS\*\*" means that paragraph 3 of Article 75 shall apply only to mode 4) with respect to the sectors or subsectors where the specific commitment are undertaken under Article 73.
6. The use of "\*\*\*" against individual CPC codes indicates that the specific commitment for that code does not extend to the total range of services covered under that code.
7. Measures affecting (a) passenger transport services by air; (b) freight transport services by air; and (c) rental/leasing services of aircraft with crew/operator are not listed in this Schedule, as these are measures affecting traffic rights or measures affecting services

directly related to the exercise of traffic rights to which Chapter 7 does not apply. The commitment for freight transport agency services does not include freight forwarding services by air transport services.

8. All references to the names of Japanese laws and regulations mentioned in the Schedule shall be construed to include any amendment thereto at the time of the entry into force of this Agreement.





<p>a) Legal advisory services on law of jurisdiction where the service supplier is a qualified lawyer (861**)</p> <p>(a) Legal advisory services on law does not include:</p> <p>(i) legal representation- al services for juridical procedures in courts and other government agencies as well as preparation of legal documents for such procedures;</p> <p>(ii) expression of legal opinions concerning laws other than laws of the jurisdiction where the service supplier is qualified as a lawyer (hereinafter referred to as the "jurisdiction" in this sector);</p>	<p>SS</p>	<p>1) None except: services must be supplied by a natural person; and commercial presence is required.</p> <p>2) None</p> <p>3) None except that services must be supplied by a natural person.</p> <p>4) None except that commercial presence is required.</p>	<p>1) None except that a service supplier is required to stay in Japan not less than 180 days in a year.</p> <p>2) None</p> <p>3) None</p> <p>4) None except that a service supplier is required to stay in Japan not less than 180 days in a year.</p>	<p>3) (a) Practice of international law is permitted, provided that the international law is or was in force in the jurisdiction.</p> <p>Practice of third country law is permitted, according to written advice on each issue from competent persons (e.g. lawyers qualified in the third country and engaging in legal business concerning the law of that country).</p> <p>Practice of Japanese law is not permitted.</p> <p>(b) Association with Bengoshi is permitted.</p> <p>Employment of Bengoshi is permitted.</p> <p>(c) Use of firm name is unrestricted, provided that it is followed with reference to "Gaikoku-Ho-Jimu-Bengoshi Jimusho".</p>
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<p>(iii) legal representation- al services for the entrustment of the preparation of notarial deeds; and</p> <p>(iv) those activities concerning a legal case whose primary objective is the acquisition or loss or change of rights concerning real property in Japan or of industrial property rights, mining rights or other rights arising upon registration thereof with government agencies in Japan.</p>				<p>(d) Representation in international arbitration is permitted.</p>
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<p>(b) A service supplier shall be required to co-operate with Bengoshi or to ask for his advice in a legal case concerning family relations or inheritance, in which a Japanese national is involved as a party, or in a legal case whose objective is the acquisition or loss or change of rights concerning real property in Japan or of industrial property rights, mining rights or other rights arising upon registration thereof with government agencies in Japan, as long as the above objective is not the primary one.</p>				
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Note to the Specific Commitment in the Sector  
of Legal Advisory Services on Law of Jurisdiction Where the Service Supplier is a Qualified Lawyer

A service supplier must be recognized as "Gaikoku-Ho-Jimu-Bengoshi" by the Minister of Justice and register with the Japan Federation of Bar Associations.

The conditions for granting recognition by the Minister of Justice are as follows:

- (a) The service supplier is qualified as a lawyer in that jurisdiction.
- (b) The service supplier has been engaged as a lawyer for at least 3 years in that jurisdiction.
- (c) The service supplier is not subject to such conditions of disqualification in that jurisdiction which, if applied to Bengoshi, would disqualify the Bengoshi.
- (d) The service supplier possesses the intention to undertake the profession in good faith.
- (e) The service supplier possesses plans, residence and financial basis to perform his functions properly and steadily.
- (f) The service supplier possesses capability to compensate for damages caused to the client, if any.

<p>a) Legal services supplied by a judicial scrivener qualified as "Shiho-Shoshi" under Japanese law (861**)</p>	<p>SS</p>	<p>1) None except: services must be supplied by a natural person or by a Judicial Scrivener Corporation<sup>2</sup>; and  commercial presence is required.</p> <p>2) None except: services must be supplied by a natural person or by a Judicial Scrivener Corporation; and  commercial presence is required.</p> <p>3) None except that services must be supplied by a natural person or by a Judicial Scrivener Corporation.</p> <p>4) None except that commercial presence is required.</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) None</p>	
<p>a) Legal services supplied by an administrative scrivener qualified as "Gyousei-Shoshi" under Japanese law (861**)</p>	<p>SS</p>	<p>1) None except: services must be supplied by a natural person or by an Administrative Scrivener Corporation<sup>3</sup>; and  commercial presence is required.</p>	<p>1) None</p>	

2 A Judicial Scrivener Corporation under Japanese law is composed of two or more partners who are judicial scriveners qualified as "Shiho-Shoshi" under Japanese law and have the right and obligation to execute activities of the Judicial Scrivener Corporation.

3 An Administrative Scrivener Corporation under Japanese law is composed of two or more partners who are administrative scriveners qualified as "Gyousei-Shoshi" under Japanese law and have the right and obligation to execute activities of the Administrative Scrivener Corporation.

		<p>2) None except: services must be supplied by a natural person or by an Administrative Scrivener Corporation; and commercial presence is required.</p> <p>3) None except that services must be supplied by a natural person or by an Administrative Scrivener Corporation.</p> <p>4) None except that commercial presence is required.</p>	<p>2) None</p> <p>3) None</p> <p>4) None</p>	
a) Legal services supplied by a certified social insurance and labor consultant qualified as "Shakai-Hoken-Romushi" under Japanese law (861**)	SS	<p>1) None except: services must be supplied by a natural person or by a Certified Social Insurance and Labor Consultant Corporation<sup>4</sup>; and commercial presence is required.</p> <p>2) None except: services must be supplied by a natural person or by a Certified Social Insurance and Labor Consultant Corporation; and commercial presence is required.</p>	<p>1) None</p> <p>2) None</p>	

4 A Certified Social Insurance and Labor Consultant Corporation under Japanese law is composed of two or more partners who are certified social insurance and labor consultants qualified as "Shakai-Hoken-Romushi" under Japanese law and have the right and obligation to execute activities of the Certified Social Insurance and Labor Consultant Corporation.

		<p>3) None except that services must be supplied by a natural person or by a Certified Social Insurance and Labor Consultant Corporation.</p> <p>4) None except that commercial presence is required.</p>	<p>3) None</p> <p>4) None</p>	
a) Legal services supplied by a patent attorney qualified as "Benrishi" under Japanese law (86119, 8612, 8613, 8619)	SS	<p>1) None except: services must be supplied by a natural person or by a Patent Business Corporation<sup>5</sup>; and commercial presence is required for a Patent Business Corporation.</p> <p>2) None except: services must be supplied by a natural person or by a Patent Business Corporation; and commercial presence is required for a Patent Business Corporation.</p> <p>3) None except that services must be supplied by a natural person or by a Patent Business Corporation.</p> <p>4) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) None</p>	
a) Legal services supplied by a maritime procedure agent qualified as "Kaijidairishi" under Japanese law (861**)	SS	<p>1) None except that services must be supplied by a natural person.</p> <p>2) None except that services must be supplied by a natural person.</p>	<p>1) None</p> <p>2) None</p>	

5 A Patent Business Corporation under Japanese law is composed of two or more partners who are patent attorneys qualified as "Benrishi" under Japanese law and who have the right and obligation to execute activities of the Patent Business Corporation.

		3) None except that services must be supplied by a natural person. 4) None	3) None 4) None	
a) Legal services supplied by a land and house surveyor qualified as "Tochi-Kaoku-Chosashi" under Japanese law (861**)	SS	1) None except: services must be supplied by a natural person or by a Land and House Surveyor Corporation <sup>6</sup> , and commercial presence is required. 2) None except: services must be supplied by a natural person or by a Land and House Surveyor Corporation; and commercial presence is required. 3) None except that services must be supplied by a natural person or by a Land and House Surveyor Corporation. 4) None except that commercial presence is required.	1) None 2) None 3) None 4) None	

<sup>6</sup> A Land and House Surveyor Corporation under Japanese law is composed of two or more partners who are land and house surveyors qualified as "Tochi-Kaoku-Chosashi" under Japanese law and have the right and obligation to execute activities of the Land and House Surveyor Corporation.

<p>b) Accounting, auditing and bookkeeping services (862)</p>	<p>SS</p>	<p>1) None except: provision of the services that must be supplied by an accountant qualified as "Koninkaikeishi" or an Audit Corporation<sup>7</sup> under Japanese law is restricted to a natural person or an Audit Corporation; and  commercial presence is required for an Audit Corporation.</p> <p>2) None except: provision of the services that must be supplied by an accountant qualified as "Koninkaikeishi" or an Audit Corporation under Japanese law is restricted to a natural person or an Audit Corporation; and  commercial presence is required for an Audit Corporation.</p> <p>3) None except that provision of the services that must be supplied by an accountant qualified as "Koninkaikeishi" or an Audit Corporation under Japanese law is restricted to a natural person or an Audit Corporation.</p> <p>4) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) None</p>	
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<sup>7</sup> An Audit Corporation under Japanese law is composed of five or more partners who are accountants qualified as "Koninkaikeishi" under Japanese law and who have the right and obligation to execute activities of the Audit Corporation.





d), e) Architectural services which must be supplied by a service supplier qualified as "Kenchikushi" under Japanese law, or by a service supplier using "Kenchikushi" (86712, 86713, 86714 <sup>9</sup> ) (86722, 86723, 86724 <sup>9</sup> , 86725 <sup>9</sup> , 86727 <sup>9</sup> )	SS	1) None except that commercial presence is required. 2) None except that commercial presence is required. 3) None 4) None except that commercial presence is required.	1) None 2) None 3) None 4) None	
d), e), g) Architectural services which may be supplied by a service supplier not qualified as "Kenchikushi" under Japanese law, or by a service supplier not using "Kenchikushi" (8671, 8672 <sup>10</sup> , 86742 <sup>10</sup> )	SS	1) None <sup>11</sup> 2) None <sup>11</sup> 3) None 4) None <sup>11</sup>	1) None 2) None 3) None 4) None	
e), f) Engineering services and integrated engineering services (8672 <sup>12</sup> , 8673 <sup>12</sup> )	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	

9 Limited to services necessary for building construction excluding post-construction services.

10 Limited to services necessary for building construction.

11 In the case where the services are supplied by a service supplier who is qualified as "Kenchikushi" under Japanese law, or by a service supplier using "Kenchikushi", commercial presence is required.

12 Excluding architectural services and civil engineering consulting services.

e), g) F e), F m) Civil engineering consulting services (86721 <sup>13</sup> , 86724 <sup>13</sup> , 86727 <sup>13</sup> , 86729 <sup>13</sup> ) (86741, 86742 <sup>13</sup> ) (86761 <sup>13</sup> ) (86751 <sup>13</sup> , 86752 <sup>13</sup> )	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
g) Urban planning and landscape architectural services (8674 <sup>12</sup> )	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
h) Medical and dental services (9312)		1) Unbound* 2) None 3) Unbound except that there is no limitation on the participation of foreign capital. 4) Unbound	1) Unbound* 2) None 3) Unbound except that there is no limitation on the participation of foreign capital. 4) Unbound	
i) Veterinary services (932)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
j) Services provided by midwives, nurses, physiotherapists and para-medical personnel (93191)		1) Unbound* 2) None	1) Unbound* 2) None	

13 Limited to services necessary for civil engineering excluding engineering design services for buildings.

		3) Unbound except that there is no limitation on the participation of foreign capital. 4) Unbound	3) Unbound except that there is no limitation on the participation of foreign capital. 4) Unbound	
B. Computer and Related Services (excluding air transport services: computer reservation system) (841, 842, 843, 844, 845, 849)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
C. Research and Development Services				
a) Research and development services on natural sciences (851) b) Research and development services on social sciences and humanities (852) c) Interdisciplinary research and development services (853)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
D. Real Estate Services				
a) Real estate services involving own or leased property (for property in Japan) (821)	SS	1) None except that commercial presence is required. 2) None except that commercial presence is required. 3) None 4) None except that commercial presence is required.	1) None 2) None 3) None 4) None	

a)	Real estate services involving own or leased property (for property outside Japan) (821)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
b)	Real estate services on a fee or contract basis (for property in Japan) (822)	SS	1) None except that commercial presence is required. 2) None except that commercial presence is required. 3) None 4) None except that commercial presence is required.	1) None 2) None 3) None 4) None	
b)	Real estate services on a fee or contract basis (for property outside Japan) (822)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
E. Rental and Leasing Services without Operators					
a)	Rental and leasing services, without operators, relating to ships <sup>14</sup> (83103)	SS	1) None 2) None	1) None 2) None	

14 In the case that services are supplied through the use of ship flying the flag of Japan, the ship must be owned by:

- (a) a natural person with Japanese nationality; or
- (b) a juridical person established under Japanese law, with all representatives ("daihyosha") and not less than two-thirds of executives administering the affairs of the juridical person ("gyomu-wo-shikkosuru yakuin") having Japanese nationality.

		3) None  4) None	3) None except that prior notification is required for coastwise ship leasing services in accordance with the Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949).  4) None	
b) Rental and leasing services, without operators, relating to aircraft <sup>15</sup> (83104)		1) None 2) None 3) None 4) Unbound	1) None 2) None 3) None 4) Unbound	
c) Rental and leasing services, without operators, relating to transport equipment other than vessels and aircrafts (83101, 83102, 83105)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
d), e) Rental and leasing services, without operators, relating to machineries and equipment other than transport equipment, and personal and household goods (83106-83109) (832)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	

15 In the case that services are supplied through the use of aircraft registered as a Japanese aircraft, the aircraft must be owned by:

- (a) a natural person with Japanese nationality; or
- (b) a juridical person established under Japanese law, with all representatives ("daihyosha") and not less than two-thirds of executives ("yakuin") having Japanese nationality and with not less than two-thirds of voting share held by Japanese persons.

F. Other Business Services									
a) Advertising services (871)	SS	1) None	2) None	3) None	4) None	1) None	2) None	3) None	4) None
b) Market research and public opinion polling services (864)	SS	1) None	2) None	3) None	4) None	1) None	2) None	3) None	4) None
c) Management consulting services (865)	SS	1) None	2) None	3) None	4) None	1) None	2) None	3) None	4) None
d) Services related to management consulting (86601, 86609)	SS	1) None	2) None	3) None	4) None	1) None	2) None	3) None	4) None
e) Technical testing and analysis services for manufactured goods, excluding services covered by the Measurement Law (Law No. 51 of 1992) (8676**)	SS	1) None	2) None	3) None	4) None	1) None	2) None	3) None	4) None

<p>e) Technical testing and analysis services covered by the Measurement Law as follows: (86763**) <ul style="list-style-type: none"> <li>(a) periodic inspection of specified measuring instruments;</li> <li>(b) verification of specified measuring instruments;</li> <li>(c) measurement certification business, including specified measurement certification business;</li> <li>(d) inspection of specified measuring instruments used for the measurement certification;</li> <li>(e) accreditation for a person engaged in specified measurement certification business; and</li> <li>(f) calibration of the measuring instruments and other services.</li> </ul> </p>	SS	<ul style="list-style-type: none"> <li>1) None except that commercial presence is required.</li> <li>2) None except that commercial presence is required.</li> <li>3) None</li> <li>4) None except that commercial presence is required.</li> </ul>	<ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> <li>3) None</li> <li>4) None</li> </ul>	
<p>f) Services incidental to agriculture, hunting and forestry (881)</p>	SS	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) None</li> </ul>	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law.</li> </ul>	



		4) None	4) None	
h) Services incidental to mining (883, 5115)	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) None except that services requiring mining rights or mining lease rights must be supplied by a Japanese national or a juridical person established under Japanese law, in accordance with the Mining Law (Law No. 289 of 1950).</p> <p>4) None except that services requiring mining rights or mining lease rights must be supplied by a Japanese national or a juridical person established under Japanese law, in accordance with the Mining Law.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None except: services requiring mining rights or mining lease rights must be supplied by a Japanese national or a juridical person established under Japanese law, in accordance with the Mining Law; and prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law.</p> <p>4) None except that services requiring mining rights or mining lease rights must be supplied by a Japanese national or a juridical person established under Japanese law, in accordance with the Mining Law.</p>	
i) Services incidental to manufacturing (884**, 885)				
(a) related to aircraft industry, explosives manufacturing industry, leather and leather products manufacturing industry, arms industry, space industry and biological preparation manufacturing industry		<p>1) Unbound*</p> <p>2) None</p> <p>3) None except that the number of licenses conferred to service suppliers may be limited.</p> <p>4) Unbound</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law.</p> <p>4) Unbound</p>	

(b) other	SS	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) None</li> <li>4) None</li> </ul>	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) None</li> <li>4) None</li> </ul>	
j) Services incidental to energy distribution (887)  (a) transmission services on a fee or contract basis of electricity		<ul style="list-style-type: none"> <li>1) Unbound</li> <li>2) None</li> <li>3) None except that the number of licenses conferred to service suppliers may be limited.</li> <li>4) Unbound</li> </ul>	<ul style="list-style-type: none"> <li>1) Unbound</li> <li>2) None</li> <li>3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law.</li> <li>4) Unbound</li> </ul>	
(b) transmission services on a fee or contract basis of steam and hot water	SS	<ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> <li>3) None</li> <li>4) None</li> </ul>	<ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> <li>3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law.</li> <li>4) None</li> </ul>	
k) Placement services of personnel within Japan except in the following occupations (limited to services to establish employment relationship between a job applicant and an employer seeking personnel on the basis of job applications and offers):		<ul style="list-style-type: none"> <li>1) None except that commercial presence is required.</li> <li>2) Unbound*</li> <li>3) None</li> <li>4) None except that commercial presence is required.</li> </ul>	<ul style="list-style-type: none"> <li>1) None</li> <li>2) Unbound*</li> <li>3) None</li> <li>4) None</li> </ul>	

<p>(a) Port transport services;</p> <p>(b) Construction work; and</p> <p>(c) Work which is stipulated in the Ministry of Health, Labor and Welfare Ordinance as having a possibility of hindering worker's protection (such work is not stipulated now). (87201, 87202)</p>				
<p>k) Supply services of personnel within Japan<sup>16</sup> except in the following categories of business (limited to services to dispatch workers employed by the service supplier to work under the direction of another person while employment relationship with the service supplier is maintained):</p> <p>(a) Port transport services;</p> <p>(b) Construction work;</p> <p>(c) Guarding; and</p>		<p>1) None except that commercial presence is required.</p> <p>2) Unbound*</p> <p>3) None</p> <p>4) None except that commercial presence is required.</p>	<p>1) None</p> <p>2) Unbound*</p> <p>3) None</p> <p>4) None</p>	

16 The dispatched worker may not be supplied from outside of Japan through intra-corporate transfer.

(d) Other work stipulated in Cabinet Order after consulting the Labor Policy Council (such as medical-related work). (87203, 87209)				
1) Investigation services (87301)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
1) Security guard services (873, except 87301)	SS*	1) None except that commercial presence is required. 2) None 3) None 4) Unbound	1) None 2) None 3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law. 4) Unbound	
m) Related scientific and technical consulting services (excluding services related to petroleum, petroleum products, gas, mineral and surveying) (86751, 86752)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	

m) Related scientific and technical consulting services related to petroleum, petroleum products, gas and mineral <sup>17</sup> (86751, 86752)		1) Unbound 2) None 3) None 4) None	1) Unbound 2) None 3) None 4) None	
m) Surveying services for the land in Japan (86753, 86754)	SS	1) None except that commercial presence is required except for the surveys conducted without the use of Basic Survey <sup>18</sup> data or Public Survey <sup>19</sup> data, and where the survey is for small areas, or where the survey does not require high accuracy. 2) None except that commercial presence is required except for the surveys conducted without the use of Basic Survey data or Public Survey data, and where the survey is for small areas, or where the survey does not require high accuracy. 3) None	1) None 2) None 3) None	

17 Excluding services requiring mining rights or mining lease rights in accordance with the Mining Law.

18 The term "Basic Survey" means a primary or fundamental survey, conducted by the Geographical Survey Institute of the Ministry of Land, Infrastructure and Transport, for all surveys.

19 The term "Public Survey" means a survey, other than Basic Survey, which:

- (a) does not include (i) surveying for small areas and (ii) surveying where high accuracy is not required; and
- (b) is conducted with the expenses borne or subsidised, in part or in full, by the Government or other public entities.

		4) None except that commercial presence is required except for the surveys conducted without the use of Basic Survey data or Public Survey data, and where the survey is for small areas, or where the survey does not require high accuracy.	4) None	
m) Surveying services for the land outside Japan (86753, 86754)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
n) Maintenance and repair of equipment (excluding vessels, aircrafts and other transport equipment) (633, 8861-8866)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
o) Building-cleaning services (87401, 87402, 87403, 87409)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
p) Photographic services (875)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
q) Packaging services (876)	SS	1) None 2) None	1) None 2) None	

		3) None 4) None	3) None 4) None	
r) Printing and publishing services (88442)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
s) Convention services (87909)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
t) Credit reporting services (87901)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
t) Collection agency services: (87902**) <p>(a) which do not constitute the practice of law in respect of legal cases</p>	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	

(b) which constitute the practice of law in respect of legal cases <sup>20</sup>	SS	<p>1) None except: services must be supplied by a natural person<sup>21</sup>, by a Legal Profession Corporation or by a juridical person established under the Special Measures Law Concerning Credit Management and Collection Business; and commercial presence is required.</p> <p>2) None</p> <p>3) None except that services must be supplied by a natural person, by a Legal Profession Corporation or by a juridical person established under the Special Measures Law Concerning Credit Management and Collection Business.</p> <p>4) None except that commercial presence is required.</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) None</p>	
t) Telephone answering services (87903)	SS	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) None</p>	
t) Duplicating services (87904)	SS	<p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	

20 Excluding taking over and recovery of credits except for those stipulated in the Special Measures Law Concerning Credit Management and Collection Business (Law No. 126 of 1998).

21 In this sector, the term "natural person" means a lawyer qualified as "Bengoshi" under Japanese law.



		4) None	4) None	
t) Translation and interpretation services (87905)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
t) Mailing list compilation and mailing services (87906)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
t) Specialty design services (87907)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
t) Trade fair and exhibition organization services (87909)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
t) Services incidental to energy manufacturing related to heat supply industry and oil industry	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law. 4) None	

2. COMMUNICATION SERVICES					
B. Courier Services <sup>22</sup>					
Correspondence-delivery services supplied by Special Correspondence Delivery Business	SS	1)	None	1)	None
		2)	None	2)	None
		3)	None	3)	None
		4)	None	4)	None
Special Correspondence Delivery Business is the business which provides correspondence-delivery services of one or a combination of the following mail items as stipulated in the Law Concerning Correspondence Delivery Provided by Private-Sector Operators (Law No. 99 of 2002):					
(a) mail items that have dimensions totaling more than 90 cm or weight over 4 kg;					
(b) mail items that are to be delivered within three hours of being mailed; and					
(c) mail items that bear a delivery charge that exceeds the amount specified by an ordinance of the Ministry of Internal Affairs and Communications and is not less than 1,000 yen.					

<sup>22</sup> Suppliers of courier services are subject to permission/registration requirements for related modes of transport services. Japan's commitments in courier services other than correspondence-delivery services including those supplied by Special Correspondence Delivery Business are indicated in the sector of Transport Services. (Refer to 11. TRANSPORT SERVICES.)

C. Telecommunications Services				
Basic telecommunications services:	SS	1) None	1) None	Japan undertakes the ADDITIONAL COMMITMENTS described below.
a) Voice telephone services; (7521)		2) None	2) None	
b) Packet-switched data transmission services; (7523**)		3) None except that foreign capital participation, direct and/or indirect, in Nippon Telegraph and Telephone Corporation (NTT) <sup>23</sup> must be less than one-third.	3) None except that board members and auditors in NTT and the Regional Companies are required to have Japanese nationality.	
c) Circuit-switched data transmission services; (7523**)		4) None	4) None	
d) Telex services; (7523**)				
f) Facsimile services; (7521**, 7529**)				
g) Private leased circuit services; and (7522**, 7523**)				
o) Other				

JAPAN: ADDITIONAL COMMITMENTS

Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

Definitions

- (a) the term "telecommunications" means the transmission and reception of signals by any electromagnetic means;
- (b) the term "public telecommunications transport service" means any telecommunications transport service required, explicitly or in effect, by Japan to be offered to the public generally. Such services may include, *inter alia*, telegraph, telephone, telex, and data transmission typically involving the real-time transmission of customer-supplied information between two or more points without any end-to-end change in the form or content of the customer's information;
- (c) the term "public telecommunications transport network" means the public telecommunications infrastructure which permits telecommunications between and among defined network termination points;
- (d) the term "essential facilities" means facilities of a public telecommunications transport network or service that:

23 NTT must own all the shares issued by the Regional Companies.

- (i) are exclusively or predominantly provided by a single or limited number of suppliers; and
  - (ii) cannot feasibly be economically or technically substituted in order to provide a service;
- (e) the term "major supplier" means a supplier that has the ability to materially affect the terms of participation having regard to price and supply in the relevant market for basic telecommunications services as a result of:
- (i) control over essential facilities; or
  - (ii) use of its position in the market;
- (f) the term "facilities-based suppliers" means telecommunications carriers who establish telecommunications circuit facilities;
- (g) the term "services-based suppliers" means telecommunications carriers other than the telecommunications carriers defined by subparagraph (f) above.

## 1. Competitive Safeguards

### 1.1 Prevention of Anti-competitive Practices in Telecommunications

Appropriate measures shall be maintained for the purposes of preventing suppliers, who alone or together are a major supplier, from engaging in or continuing anti-competitive practices.

### 1.2 Safeguards

The anti-competitive practices referred to in paragraph 1.1 above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization or pricing services in a manner that gives rise to unfair competition;
- (b) discriminating specific persons unfairly in providing telecommunications services;
- (c) using information obtained from competitors with anti-competitive results; and
- (d) not making available to other service suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

## 2. Interconnection

### 2.1 Interconnection to be Ensured

Interconnection shall be ensured between a facilities-based supplier and any other facilities-based supplier or a services-based supplier to the extent provided for in its laws and regulations.

### 2.2 Interconnection with Major Suppliers

Interconnection with a major supplier shall be ensured at any technically feasible point in the network. Such interconnection is provided:

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favorable than that provided for its own like services, for like services of non-affiliated service suppliers or of its subsidiaries or other affiliates;
- (b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are

transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled<sup>(Note)</sup> so that the service supplier need not pay for network components or facilities that it does not require for the services to be provided; and

(Note) "Sufficiently unbundled" network components or facilities include unbundled local loop (including line sharing).

(c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

#### 2.3 Co-Location, etc.

It shall be ensured that a major supplier is required to allow other service suppliers who interconnect with the major supplier:

- (a) to locate their equipment which is essential for interconnection within the major supplier's buildings; or
- (b) to install their cables and lines which are essential for interconnection within the major supplier's buildings, conduits, cable tunnels or telephone poles;

where physically feasible and where no practical or viable alternatives exist, in order to interconnect smoothly with the essential facilities of the major supplier.

#### 2.4 Interconnection Pursuant to an Approved Reference Interconnection Offer

It shall be ensured that major suppliers are required to provide a reference interconnection offer for approval by the relevant regulatory authorities. The reference interconnection offer shall be consistent with the principles of paragraph 1 and shall contain written statements of the charges and conditions on which a major supplier will interconnect with other service suppliers. At a minimum, the reference interconnection offer shall be required to contain the following:

- (a) a list and description of the interconnection-related services offered, the terms and conditions for such services, the operational and technical requirements, and the procedures or processes that will be used to order and provide such services;
- (b) a list of cost-oriented rates that a major supplier offers for all its interconnection-related services. Where feasible, the major supplier shall be required to use an established methodology based on incremental forward-looking economic cost;
- (c) standard periods between the dates of request and commencement which are stipulated in a clear manner and are reasonable; and
- (d) a statement regarding the duration of the proposed interconnection agreement, if it is fixed.

2.5 Section 2.2, 2.3 and 2.4 are applied only to a major supplier which has control over essential facilities.

#### 2.6 Public Availability of the Procedures for Interconnection Negotiations

It shall be ensured that the procedures applicable for interconnection to a major supplier are made publicly available.

#### 2.7 Transparency of Interconnection Arrangements

It shall be ensured that a major supplier makes publicly available either its interconnection agreements or reference interconnection offer.

#### 2.8 Interconnection Dispute Settlement

A service supplier requesting interconnection with a major supplier shall have recourse, either:

- (a) at any time; or

(b) after a reasonable period of time which has been made publicly known;

to an independent domestic body, which may be a regulatory body as referred to in paragraph 5, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal Service

Japan has the right to define the kind of universal service obligation it wishes to maintain. Such obligations shall not be regarded as anti-competitive per se, provided that they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by Japan.

4. Public Availability of Licensing Criteria

(a) Where a license is required, the following shall be made publicly available:

- (i) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a license; and
- (ii) the terms and conditions of individual licenses.

(b) The reasons for the denial of a license shall be made known to the applicant upon request.

5. Independent Regulators

The regulatory body shall be separate from, and not accountable to, any supplier of telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and Use of Scarce Resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, shall be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands shall be made publicly available except for detailed identification of frequencies allocated for specific government uses.

e) Telegraph services (7522)		1) Unbound 2) None 3) Unbound 4) Unbound	1) Unbound 2) None 3) Unbound 4) Unbound	
Value-added services: h) Electronic mail services; (7523**)	SS	1) None 2) None	1) None 2) None	

i) Voice mail services; (7523**) j) On-line information and data base retrieval services; (7523**) k) Electronic data interchange (EDI) services; (7523**) l) Enhanced/value added facsimile services including store and forward, store and retrieve; (7523**) m) Code and protocol conversion services; n) On-line information and/or data processing services (including transaction processing); and (843**) o) Other		3) None except that foreign capital participation, direct and/or indirect, in Nippon Telegraph and Telephone Corporation (NTT) <sup>2,3</sup> must be less than one-third. 4) None	3) None except that board members and auditors in NTT and the Regional Companies are required to have Japanese nationality. 4) None	
D. Audiovisual Services				
a) Motion picture and video tape production and distribution services (9611)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
b) Motion picture projection services (9612)	SS	1) None 2) None 3) None	1) None 2) None 3) None	

		4) None	4) None	
c) Radio and television services (9613)		1) Unbound 2) None 3) Unbound 4) Unbound	1) Unbound 2) None 3) Unbound 4) Unbound	
d) Radio and television transmission services (7524)		1) Unbound 2) None 3) Unbound 4) Unbound	1) Unbound 2) None 3) Unbound 4) Unbound	
e) Sound recording services	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
3. CONSTRUCTION AND RELATED ENGINEERING SERVICES				
A. General Construction Work for Buildings (512)				
B. General Construction Work for Civil Engineering (513)				
C. Installation and Assembly Work (514, 516)				
D. Building Completion and Finishing Work (517)				
E. Other (511, 515, 518)				



These services indicated above excluding those related to mining		1) Unbound* 2) None 3) None 4) Unbound	1) Unbound* 2) None 3) None 4) Unbound	
4. DISTRIBUTION SERVICES				
A. Commission Agents' Services (621, 61111, 61130, 61210)				
B. Wholesale Trade Services (622, 61111, 61130, 61210)				
C. Retailing Services (631, 632, 61112, 61130, 61210)				
D. Franchising Services (8929)				
(a) These services indicated above excluding those related to petroleum, petroleum products, alcoholic beverages, and those supplied at Public Wholesale Market <sup>24</sup>	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
(b) These services related to petroleum and petroleum products	SS	1) None 2) None	1) None 2) None	

24 Public Wholesale Market is a market established under national or local government approval for commission agents' services and wholesale trade services of fresh foods including vegetables, fruits, marine products, meats and other daily foods, and flowers, with auction or bidding hall, parking lot and other facilities necessary for trade and disposal of aforementioned goods, which is operated on a permanent basis.

		3) None	3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law.	
		4) None	4) None	
(c) These services related to alcoholic beverages	SS	1) None	1) None	
		2) None	2) None	
		3) None except that the number of licenses conferred to service suppliers may be limited.	3) None	
		4) None except that the number of licenses conferred to service suppliers may be limited.	4) None	
(d) These services supplied at Public Wholesale Market	SS	1) Unbound*	1) Unbound*	
		2) Unbound*	2) Unbound*	
		3) None except: the number of licenses conferred to service suppliers may be limited; and  services must be supplied by a juridical person established under Japanese law, at Central Public Wholesale Market, in accordance with the Public Wholesale Market Law (Law No. 35 of 1971).	3) None	
		4) None except: the number of licenses conferred to service suppliers may be limited; and	4) None	

		services must be supplied by a juridical person established under Japanese law, at Central Public Wholesale Market, in accordance with the Public Wholesale Market Law.		
E. Other				
(a) Retail sales of motor fuel (613)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law. 4) None	
(b) Wholesale trade and retailing services of steam and hot water	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law. 4) None	
5. EDUCATIONAL SERVICES				
A. Primary Education Services				
Pre-school education services supplied by nursery schools (92110**) Child day-care services (93321)	SS**	1) Unbound* 2) None 3) None 4) Unbound	1) Unbound* 2) None 3) None 4) None	

Primary education services <sup>25,26</sup> , supplied as formal education (92110**, 9219)		1) Unbound 2) Unbound 3) None except that Formal Education Institutions must be established by school juridical persons. <sup>27</sup> 4) Unbound	1) Unbound 2) Unbound 3) None 4) Unbound	
B. Secondary Education Services <sup>25, 26</sup> , supplied as formal education (9221,9222,9223)		1) Unbound 2) Unbound 3) None except that Formal Education Institutions must be established by school juridical persons. 4) Unbound	1) Unbound 2) Unbound 3) None 4) Unbound	
C. Higher Education Services <sup>25,26</sup> (9231,9239)	SS	1) None 2) None 3) None except that Formal Education Institutions must be established by school juridical persons. 4) None	1) None 2) None 3) None 4) None	

25 These Educational Services supplied as formal education in Japan are supplied by Formal Educational Institutions. "Formal Education Institutions" mean elementary schools, lower secondary schools, secondary schools, upper secondary schools, universities, junior colleges, colleges of technology, schools for the blind, schools for the deaf, schools for the handicapped and kindergartens.

26 Specific commitments on market access and national treatment through any mode of supply shall not be construed to apply to the recognition of credits, degrees and other certificates in Formal Education Institutions, specialized training colleges (Senshu-Gakko) and miscellaneous schools (Kakushu-Gakko) under Japanese law.

27 The term "school juridical person" means a non-profit juridical person established for the purposes of supplying educational services under Japanese law.

D. Adult Education Services <sup>26,28</sup> (924)	SS	1) None 2) None	1) None 2) None	
E. Other Education Services <sup>26,28</sup> (929)		3) None 4) None	3) None 4) None	
6. ENVIRONMENTAL SERVICES				
A. Sewage Services (9401)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
B. Refuse Disposal Services (9402)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
C. Sanitation and Similar Services (9403)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
D. Other				
Cleaning services of exhaust gases (9404)	SS	1) Unbound* 2) None	1) Unbound* 2) None	

28 Formal Education Institutions must be established by school juridical persons. Specialized training colleges and miscellaneous schools may be required to be established by school juridical persons. Formal Education Institutions supply formal education, but at the same time they may supply educational services other than formal education, while specialized training colleges and miscellaneous schools supply educational services other than formal education.

<p>Noise abatement services (9405)</p> <p>Nature and landscape protection services (9406)</p> <p>Other environmental protection services (9409)</p>		<p>3) None</p> <p>4) None</p>	<p>3) None</p> <p>4) None</p>	
<p>7. FINANCIAL SERVICES</p>				
<p>For the purposes of this Schedule, the Understanding on Commitments in Financial Services (hereinafter referred to as the "Understanding") which is included in Japan's Schedule of Specific Commitments of the General Agreement on Trade in Services in Annex 1B to the WTO Agreement (WTO Document GATS/SC/46/Suppl.3) is incorporated into and made a part of this Schedule.</p> <p>Japan undertakes its specific commitments with respect to Financial Services in accordance with Chapter 7, Annex 5 and the Understanding.</p> <p>For prudential reasons within the context of paragraph 1 of Section 2 of Annex 5, Japan shall not be prevented from taking measures such as non-discriminatory limitations on juridical forms of a commercial presence. For the same reasons, Japan shall not be prevented from applying non-discriminatory limitations concerning admission to the market of new financial services which shall be consistent with regulatory framework aimed at achieving such prudential objectives. In this context, securities firms are allowed to deal in securities defined in the relevant Japanese law, and banks are not allowed to deal in those securities unless allowed in accordance with the said law.</p> <p>With respect to specific commitments in the sectors of Financial Services, services supplied in the Area of the Philippines to the service consumer in Japan without any active marketing from the service supplier are considered as services supplied under subparagraph (t)(ii) of Article 71.</p>				
<p>A. Insurance and Insurance-Related Services</p>	<p>SS*</p>	<p>Specific commitments in the market-access column with respect to the supply of a service as prescribed in subparagraphs (t)(i) and (ii) of Article 71 are unbound except for obligations under paragraphs B3 and 4 of the Understanding respectively which are incurred in this sector additionally to those covered by the provisions of Articles 72, 73 and 74 and Annex 5, subject to conditions and qualifications set out below.</p> <p>1) None except:</p>	<p>1) None</p>	

		<p>commercial presence is in principle required for insurance contracts on the following items and any liability arising therefrom:</p> <p>(a) goods being transported within Japan; and</p> <p>(b) ships of Japanese registration which are not used for international maritime transport; and</p> <p>commercial presence is required for insurance intermediation services in Japan.</p>		
	2)	<p>None except:</p> <p>commercial presence is in principle required for insurance contracts on the following items and any liability arising therefrom:</p> <p>(a) goods being transported within Japan; and</p> <p>(b) ships of Japanese registration which are not used for international maritime transport; and</p> <p>commercial presence is required for insurance intermediation services in Japan.</p>	2)	None
	3)	<p>None<sup>29</sup></p>	3)	None
	4)	<p>Unbound</p>	4)	Unbound

29

29 Insurance intermediation services may be supplied only for insurance contracts allowed to be supplied in Japan.

B. Banking and Other Financial Services (excluding Insurance and Insurance-Related Services)	SS*	<p>Specific commitments in the market-access column with respect to the supply of a service as prescribed in subparagraphs (t) (i) and (ii) of Article 71 are unbound except for obligations under paragraphs B3 and 4 of the Understanding respectively which are incurred in this sector additionally to those covered by the provisions of Articles 72, 73 and 74 and Annex 5, subject to conditions and qualifications set out below.</p> <p>1) None except that commercial presence is required for discretionary investment management services.</p> <p>2) None</p> <p>3) None</p> <p>4) Unbound</p>	<p>1) None</p> <p>2) None</p> <p>3) None except that the deposit insurance system does not cover deposits taken by branches of foreign banks.</p> <p>4) Unbound</p>	
8. HEALTH RELATED AND SOCIAL SERVICES				
A. Hospital Services (9311)	SS**	<p>1) Unbound*</p> <p>2) None</p> <p>3) Unbound except that there is no limitation on the participation of foreign capital.</p> <p>4) Unbound</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) Unbound except that there is no limitation on the participation of foreign capital.</p> <p>4) None</p>	
B. Other Human Health Services				
Medical services delivered in the ambulance (93192)	SS**	<p>1) Unbound*</p> <p>2) None</p>	<p>1) Unbound*</p> <p>2) None</p>	



		3) Unbound except that there is no limitation on the participation of foreign capital. 4) Unbound	3) Unbound except that there is no limitation on the participation of foreign capital. 4) None	
Residential health facilities services other than hospital services (93193)	SS**	1) Unbound* 2) Unbound 3) Unbound 4) Unbound	1) Unbound* 2) Unbound 3) Unbound 4) None	
Blood collection services stipulated in the Law to Secure the Stable Supply and Related Matters Regarding Safe Blood Products (Law No. 160 of 1956) (93199)	SS**	1) Unbound 2) None 3) Unbound 4) Unbound	1) Unbound 2) None 3) Unbound 4) None	
C. Social Services (excluding child day-care services) (933, except 93321)	SS**	1) Unbound* 2) None 3) Unbound except that there is no limitation on the participation of foreign capital. 4) Unbound	1) Unbound* 2) None 3) Unbound except that there is no limitation on the participation of foreign capital. 4) None	
9. TOURISM AND TRAVEL RELATED SERVICES				
A. Hotels and Restaurants				
Hotels and restaurants services (excluding catering services) (641-643, except 6423)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	

Catering services (6423)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
B. Travel Agencies and Tour Operators Services (7471)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
C. Tourist Guides Services (7472)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
10. RECREATIONAL, CULTURAL AND SPORTING SERVICES				
A. Entertainment Services (including theatre, live bands and circus services) (9619)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
B. News Agency Services (962)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	

C. Libraries, Archives, Museum and Other Cultural Services				
Libraries and archives services (96311, 96312)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
Museum services including preservation services of historical sites and buildings (9632)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
Other cultural services (9633)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
D. Sporting and Other Recreational Services				
Sporting services (9641)  Recreation parks and beach services (96491)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
Other recreational services n.e.c. (96499)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	

11. TRANSPORT SERVICES				
A. Maritime Transport Services				
a), b) International maritime transport services (including services of passenger transportation and freight transportation) (7211,7212)	SS	1) (a) Liner Shipping: None <sup>30</sup> (b) Bulk, tramp, and other international shipping, including passenger transportation: None <sup>30</sup>  2) None  3) (a) Establishment of a registered company for the purposes of operating a fleet flying the flag of Japan: None except that there is a nationality requirement <sup>31</sup> for a ship to fly the flag of Japan.  (b) Other forms of commercial presence for the supply of international maritime transport services (as defined in paragraph 1 of Note below): None	1) (a) Liner Shipping: None <sup>30</sup> (b) Bulk, tramp, and other international shipping, including passenger transportation: None <sup>30</sup>  2) None  3) (a) Establishment of a registered company for the purposes of operating a fleet flying the flag of Japan: None except that there is a nationality requirement <sup>31</sup> for a ship to fly the flag of Japan.  (b) Other forms of commercial presence for the supply of international maritime transport services (as defined in paragraph 1 of Note below): None	The following services will be made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions:  (a) Pilotage services;  (b) Pushing and towing services;  (c) Provisioning, fuelling and watering services;  (d) Garbage collecting and refuse disposal services;  (e) Port captain's services;

30 Restriction or prohibition of a) entry in Japanese ports and b) loading or unloading of cargoes in Japanese ports for a designated period may be imposed as a countermeasure on operators of vessels who belong to the country in which interests of Japanese operators continue to be substantially damaged, in spite of prior notification of taking such measure, under unfavorable treatment imposed on them by that country or by local authorities or similar entities of that country.

31 In this sector, the term "nationality requirement" means that the ship must be owned by:

- (a) a natural person with Japanese nationality; or
- (b) a juridical person established under Japanese law, with all representatives ("daihyosha") and not less than two-thirds of executives administering the affairs of the juridical person ("gyomu-wo-shikkousuru yakuin") having Japanese nationality.

		<p>4) (a) Ships' crews: None except that foreign nationals employed by Japanese juridical persons, except for the seafarers referred to in the relevant official notification, may not work on the vessels flying the Japanese flag.</p> <p>(b) Key personnel employed in relation to a commercial presence as defined under 3) (b): None</p>	<p>4) (a) Ships' crews: None except that foreign nationals employed by Japanese juridical persons, except for the seafarers referred to in the relevant official notification, may not work on the vessels flying the Japanese flag.</p> <p>(b) Key personnel employed in relation to a commercial presence as defined under 3) (b) above: None</p>	<p>(f) Navigation aids services;</p> <p>(g) Shore based operational services essential to ship operations, including communications, water and electrical supplies;</p> <p>(h) Emergency repair services; and</p> <p>(i) Anchorage, berths and berthing services.</p>
c) Rental of vessels with crew (excluding vessels flying the Japanese flag) (7213)	SS	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) None</p>	
A. Maritime Auxiliary Transport Services				
d) Maintenance and repair of vessels (8868**)	SS	<p>1) Unbound*</p> <p>2) None</p>	<p>1) Unbound*</p> <p>2) None</p>	

		3) None except that establishing or extending docks or berths which can be used to manufacture or repair the vessels beyond a fixed scale are subject to an economic needs test.	3) None	
		4) None	4) None	
e) Pushing and towing services (7214)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
f) Salvaging and refloating services, watering services, fueling services, garbage collecting services (7454, 7459)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
Maritime cargo handling services (as defined in paragraph 2 of Note below)	SS	1) Unbound* 2) None 3) None except that the number of licenses conferred to service suppliers may be limited in ports designated by the Government. <sup>32</sup> 4) None except that the number of licenses conferred to service suppliers may be limited in ports designated by the Government. <sup>32</sup>	1) Unbound* 2) None 3) None 4) None	

32 Public utility concession or licensing procedures may apply in case of occupation of the public domain.

<p>Container station and depot services (as defined in paragraph 3 of Note below)</p>	<p>SS</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None except that the number of licenses conferred to service suppliers may be limited in ports designated by the Government.<sup>32</sup></p> <p>4) None except that the number of licenses conferred to service suppliers may be limited in ports designated by the Government.<sup>32</sup></p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None</p> <p>4) None</p>	
<p>Maritime agency services (as defined in paragraph 4 of Note below)</p>	<p>SS</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) None</p>	
<p>Maritime freight forwarding services (as defined in paragraph 5 of Note below)</p>	<p>SS</p>	<p>1) None except: commercial presence is required; and  an operation permit or governmental registration will not be granted when fair business activities are not ensured, in accordance with Freight Forwarding Business Law (Law No. 82 of 1989).</p> <p>2) None</p> <p>3) None except that an operation permit or governmental registration will not be granted when fair business activities are not ensured, in accordance with Freight Forwarding Business Law.</p>	<p>1) None except that an operation permit or governmental registration will not be granted when fair business activities are not ensured, in accordance with Freight Forwarding Business Law.</p> <p>2) None</p> <p>3) None except that an operation permit or governmental registration will not be granted when fair business activities are not ensured, in accordance with Freight Forwarding Business Law.</p>	

		4) None except:  commercial presence is required; and  an operation permit or governmental registration will not be granted when fair business activities are not ensured, in accordance with Freight Forwarding Business Law.	4) None except that an operation permit or governmental registration will not be granted when fair business activities are not ensured, in accordance with Freight Forwarding Business Law.	
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Note to the Specific Commitments in the Sectors  
of Maritime Transport Services and Maritime Auxiliary Transport Services

Notwithstanding the fact that road, rail, inland waterways and related auxiliary services are not fully covered in this Schedule of Specific Commitments, a multimodal transport operator<sup>(Note 1)</sup> shall have the ability to rent or lease trucks, railway carriages or barges, and related equipment, for the purposes of inland forwarding of cargoes, or have access to, and use of, these forms of multimodal activities on reasonable and non-discriminatory terms and conditions<sup>(Note 2)</sup> for the purposes of carrying out multimodal transport operations.

(Note 1) "Multimodal transport operator" means the person on whose behalf the bill of lading, multimodal transport document or any other document evidencing a contract of multimodal carriage of goods is issued and who is responsible for the carriage of goods pursuant to the contract of carriage.

(Note 2) "Reasonable and non-discriminatory terms and conditions" means, for the purposes of multimodal transport operations, the ability of the multimodal transport operator to arrange for the conveyance of its merchandise on a timely basis, including priority over other merchandise which has entered the port at a later date.

Definitions

1. "Other forms of commercial presence for the supply of international maritime transport services" means the ability for international maritime transport service suppliers of the Philippines to undertake in Japan all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the specific commitments undertaken in respect of services supplied under subparagraph (t)(i) of Article 71.)

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any domestic transport and related services, including inland transport services by any mode, particularly inland waterways, road and rail, but excluding air, necessary for the supply of the integrated service;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerized information systems and electronic data interchange



(subject to the provisions of the Annex on Telecommunications to the GATS);

- (e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the commitments provided for in Chapter 9 (Movement of Natural Persons)) with any locally established shipping agency; and
- (f) acting on behalf of the companies, organizing the call of the ship or taking over cargoes when required.

2. "Maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organized independently of the stevedoring or terminal operator companies. The activities covered include the organization and supervision of:

- (a) the loading/discharging of cargo to/from a ship;
- (b) the lashing/unlashing of cargo; and
- (c) the reception/delivery and safekeeping of cargoes before shipment or after discharge.

3. "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

4. "Maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

- (a) marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information; and
- (b) acting on behalf of the companies organizing the call of the ship or taking over cargoes when required.

5. "Maritime freight forwarding services" means an activity consisting of organizing and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Maritime freight forwarding services include those provided by a person on whose behalf the bill of lading or any other document evidencing a contract of carriage of goods is issued and who is responsible for the carriage of goods pursuant to the contract of carriage.

B. Internal Waterways Transport					
d)	Maintenance and repair of vessels (8868**)	SS	1) Unbound*	1) Unbound*	
			2) None	2) None	
			3) None except that establishing or extending docks or berths which can be used to manufacture or repair the vessels beyond a fixed scale are subject to an economic needs test.	3) None	

		4) None	4) None	
e) Pushing and towing services (7224)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
f) Salvaging and refloating services, watering services, fuelling services and garbage collecting services (7454, 7459)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
C. Air Transport Services				
d) Aircraft repair and maintenance services defined in subparagraph (a) of Article 71	SS	1) Unbound* 2) None 3) None except that the number of licenses conferred to service suppliers may be limited. 4) None	1) Unbound* 2) None 3) None 4) None	
e) Selling and marketing of air transport services defined in subparagraph (k) of Article 71	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
e) Computer reservation system services defined in subparagraph (c) of Article 71	SS	1) None 2) None 3) None	1) None 2) None 3) None	

		4) None	4) None	
D. Space Transport (733)		1) Unbound 2) None 3) Unbound 4) Unbound	1) Unbound 2) None 3) Unbound 4) Unbound	
E. Rail Transport Services				
a) Passenger transportation (7111)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law. 4) None	
b) Freight transportation (7112)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law. 4) None	
c) Pushing and towing services (7113)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	

d)	Maintenance and repair services of rail transport equipment (8868**)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
d)	Rental of rail transport equipment with operator	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
e)	Supporting services for rail transport services (743)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law. 4) None	
F. Road Transport Services					
a)	Passenger transportation (71211, 71212, 71213, 71214, 71221)	SS	1) Unbound* 2) None 3) None except that limitations on the number of service suppliers, on the number of service operations or on the quantity of service output may be applied, on a temporary and non-discriminatory basis.	1) Unbound* 2) None 3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law.	

		<p>4) None except:  limitations on the number of service suppliers, on the number of service operations or on the quantity of service output may be applied, on a temporary and non-discriminatory basis; and  commercial presence is required.</p>	<p>4) None</p>	
<p>b) Freight transportation services (7123)</p>	SS	<p>1) Unbound*  2) None  3) None except that limitations on the number of service suppliers, on the number of service operations or on the quantity of service output may be applied, on a temporary and non-discriminatory basis.  4) None except:  limitations on the number of service suppliers, on the number of service operations or on the quantity of service output may be applied, on a temporary and non-discriminatory basis; and  commercial presence is required.</p>	<p>1) Unbound*  2) None  3) None  4) None</p>	
<p>c) Rental of commercial vehicles with operator (7124)</p>	SS	<p>1) None  2) None  3) None  4) None</p>	<p>1) None  2) None  3) None  4) None</p>	

d)	Maintenance and repair services of road transport equipment (6112, 8867)	SS	1) Unbound* 2) None 3) None 4) None except that commercial presence is required.	1) Unbound* 2) None 3) None 4) None	
e)	Supporting services for road transport services (744)	SS	1) None 2) None 3) None except that the number of licenses conferred to service suppliers may be limited for motorway businesses. 4) None except that the number of licenses conferred to services suppliers may be limited for motorway businesses.	1) None 2) None 3) None 4) None	
G. Pipeline Transport					
a)	Transportation of fuels (7131)  (a) transportation services of natural gas on a fee or contract basis		1) Unbound 2) None 3) None except that the number of licenses conferred to service suppliers may be limited. 4) Unbound	1) Unbound 2) None 3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law. 4) Unbound	
	(b) transportation services of petroleum on a fee or contract basis	SS	1) None 2) None 3) None	1) None 2) None 3) None	

		4) None	4) None	
b) Transport services of goods other than fuels (7139)	SS	1) None 2) None 3) None 4) None	1) None 2) None 3) None 4) None	
H. Services Auxiliary to All Modes of Transport				
a) Cargo-handling services (excluding services relating to maritime transport services) (741)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
b) Storage and warehouse services (excluding services relating to petroleum and petroleum products) (742)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None 4) None	
b) Storage and warehouse services relating to petroleum and petroleum products (742)	SS	1) Unbound* 2) None 3) None 4) None	1) Unbound* 2) None 3) None except that prior notification is required in accordance with the Foreign Exchange and Foreign Trade Law. 4) None	

c) Freight transport agency services (excluding services relating to maritime freight forwarding services) (748)	SS	1) None except that commercial presence is required. 2) None 3) None 4) None except that commercial presence is required.	1) None 2) None 3) None 4) None	
d) Customs clearance agent services related to Japanese Customs	SS	1) None except that commercial presence is required. 2) None except that commercial presence is required. 3) None 4) None except that commercial presence is required.	1) None 2) None 3) None 4) None	
12. OTHER SERVICES NOT INCLUDED ELSEWHERE (95, 97, 98, 99)				
Home helper services (excluding the services classified in Social Services)		1) Unbound* 2) None 3) None 4) Unbound	1) Unbound* 2) None 3) None 4) Unbound	



[外務省]1B: Schedule of the Philippines

Explanatory Notes

- 1) Alphabets indicated against individual sectors or subsectors and numbers in brackets are references to the Services Sectoral Classification List (GATT Document MTN.GNS/W/120, dated 10 July 1991) and the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991), unless otherwise specified. These alphabetical and numerical divisions are indicated to enhance the clarity in the description of specific commitments, but shall not be construed as being a part of the specific commitments.
- 2) The scheduling of specific commitments follows the Guidelines for the Scheduling of Specific Commitments (WTO Document S/L/92, dated 28 March 2001). The Guidelines shall not, however, be construed as being legally binding.
- 3) The modes of supply 1), 2), 3) and 4) indicated in this schedule correspond respectively to the supply of services defined in (i), (ii), (iii) and (iv) of subparagraph (t) of Article 71.
- 4) The entry "Unbound" means the Philippines remains free to introduce or maintain measures inconsistent with market access or national treatment in the given sector and mode of supply.
- 5) The entry "Unbound\*" means unbound due to lack of technical feasibility. The entry of "SS" in the sector or subsector under paragraph 3 of Article 75 shall not prevent the Philippines from maintaining nor adopting any measure with respect to the modes where "Unbound\*" is entered. Where the mode of supply thought to be inapplicable is in fact applicable, or becomes so in the future, the entry means "Unbound."
- 6) The use of "\*\*\*" against individual CPC codes indicates that the specific commitment for that code does not extend to the total range of services covered under that code.
- 7) All limitations on market access and national treatment in the horizontal section shall apply to all sectors and subsectors, where specific commitments are made in this schedule.

8) All references to the names of Philippine laws and regulations mentioned in the Schedule shall be construed to include any amendment thereto at the time of the entry into force of this Agreement.

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
I. HORIZONTAL SECTION			
	<p>3)</p> <p>A. In activities expressly reserved by the Constitution to Filipino citizens or corporations or association with limited foreign equity participation specific to public utilities and advertising:</p> <p>The participation of foreign investors in the governing body shall be limited to their proportionate share in its capital and all executive and managing officers of such corporations and associations must be citizens of the Philippines.</p> <p>B. In activities where foreign equity is limited to 40 percent or less of the capital stock outstanding and entitled to vote:</p> <p>The percentage of membership in the Board of Directors shall be limited to their proportionate stockholdings.</p> <p>C. In activities where more than 40 percent foreign equity is allowed:</p>	<p>3)</p> <p>A. <u>Access to Domestic Credit</u></p> <p>A foreign firm, engaged in non-manufacturing activities availing itself of peso borrowings, shall observe, at the time of borrowing, the prescribed 50:50 debt-to-equity ratio. Foreign firms covered are:</p> <p>a. partnerships, more than 40 percent of whose capital is owned by non-Filipino citizens; and</p> <p>b. corporations, more than 40 percent of whose total subscribed capital stock is owned by non-Filipino citizens.</p> <p>This requirement does not apply to banks and non-bank financial intermediaries.</p> <p>B. Banks are prohibited from extending peso loans to non-residents.</p> <p>1), 2), 3), 4) All measures taken by local government units are unbound.</p>	

	<p>a. A majority of the directors or trustees of all corporations organized must be residents of the Philippines and the corporate Board secretary shall be a resident and citizen of the Philippines; and,</p> <p>b. The paid-in equity must not be less than US\$200,000 for domestic market enterprises<sup>1</sup>; or,</p> <p>c. The paid-in equity must not be less than US\$100,000 for domestic market enterprises involving advanced technology as determined by the Department of Science and Technology (DOST); or,</p> <p>d. The paid-in equity must not be less than US\$100,000 for domestic market enterprises employing at least 50 direct employees; or,</p>		
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1 The Foreign Investments Act (RA 7042, as amended by RA 8179) defines "domestic market enterprise" as an enterprise, which produces goods for sale, or renders services to the domestic market entirely or if exporting a portion of its output fails to consistently export at least 60 percent thereof.

	<p>e. The juridical entity exports 60 percent or more of its output.</p> <p>D. <u>Acquisition of Land</u></p> <p>a. All lands of the public domain are owned by the State. Only citizens of the Philippines or corporations or associations at least 60 percent of whose capital is owned by such citizens may own land other than public lands and acquire public lands through lease.</p> <p>b. Foreign investors may lease only private-owned lands.</p> <p>4) <u>Entry and Temporary Stay of Natural Persons Supplying Services</u></p> <p>Non-resident aliens may be admitted to the Philippines for the supply of a service after a determination of the non-availability of a person in the Philippines who is competent, able and willing, at the time of application, to perform the services for which the alien is desired.</p> <p>3), 4) <u>Practice of professions</u></p> <p>The practice of professions in the Philippines shall be limited to Filipino citizens, save in cases prescribed by law.</p>		
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	1), 2), 3), 4) All measures taken by local government units are unbound.		
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Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons				
Sector or Subsector	SS	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
II. SECTOR-SPECIFIC SECTION				
1. BUSINESS SERVICES <sup>2</sup>				
A. Professional Services				
All subsectors		3), 4) Limitations listed in the horizontal section shall apply.  4) Upon recommendation of the concerned Professional Regulatory Board (PRB), the Professional Regulation Commission (PRC) may approve registration of and authorize issuance of certificate of registration/license and professional identification card with or without examination to a foreigner who is registered under the laws of his state/country and whose certificate of registration issued therein has not been suspended/revoked: provided,	3) Limitations listed in the horizontal section shall apply.  4) Upon recommendation of the concerned PRB, the PRC may approve registration of and authorize issuance of certificate of registration/license and professional identification card with or without examination to a foreigner who is registered under the laws of his state/country and whose certificate of registration issued therein has not been suspended/revoked: provided,	

2 The Philippines shall undertake a review of the laws and/or regulations on customs clearance by firms and leasing services within 2 years after the date of entry into force of this Agreement. The progress of the review will be shared by both sides.

	<p>A. That the requirements for registration/licensing in said foreign state/country are substantially the same as those required/contemplated by laws of the Philippines and that the laws of such foreign state/country allow citizens of the Philippines to practice the profession on the same basis and grant the same privileges as those enjoyed by subjects or citizens of such foreign country/state: provided, further,</p> <p>B. That the Commission may, upon recommendation of the Board concerned, authorize the issuance of a certification/license or special temporary permit to:</p> <p>a. Foreign professionals who desire to practice their professions in the country under reciprocity and other international agreements;</p> <p>b. Consultants in foreign funded, joint-venture or foreign assisted projects of the Government; or</p>	<p>A. That the requirements for registration/licensing in said foreign state/country are substantially the same as those required/contemplated by laws of the Philippines and that the laws of such foreign state/country allow citizens of the Philippines to practice the profession on the same basis and grant the same privileges as those enjoyed by subjects or citizens of such foreign country/state: provided, further,</p> <p>B. That the Commission may, upon recommendation of the Board concerned, authorize the issuance of a certification/license or special temporary permit to:</p> <p>a. Foreign professionals who desire to practice their professions in the country under reciprocity and other international agreements;</p> <p>b. Consultants in foreign funded, joint-venture or foreign assisted projects of the Government; or</p>	
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		<p>c. Employees of Philippine/foreign private firms/institutions pursuant to law, or health professionals engaged in humanitarian mission for a limited period of time: provided, finally,</p> <p>C. That agencies/ organizations/ individuals whether public or private, who secure the services of a foreign professional authorized by law to practice in the Philippines for reasons aforementioned shall be responsible for securing a special permit from the PRC and the Department of Labor and Employment (DOLE) pursuant to PRC and DOLE rules.</p>	<p>c. Employees of Philippine/foreign private firms/ institutions pursuant to law, or health professionals engaged in humanitarian mission for a limited period of time: provided, finally,</p> <p>C. That agencies/ organizations/ individuals whether public or private, who secure the services of a foreign professional authorized by law to practice in the Philippines for reasons aforementioned shall be responsible for securing a special permit from the PRC and the DOLE pursuant to PRC and DOLE rules.</p>	
<p>b. Auditing Services, including financial auditing and accounting review (86211, 86212)</p>	SS	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>3) Corporations organized for the practice of public accountancy is not allowed.</p>	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>3), 4) Subjects or citizens of foreign countries may be allowed to practice Accountancy in the Philippines, provided:</p>	

		<p>Single practitioners and partnerships for the practice of public accountancy shall be registered certified public accountants in the Philippines. A certificate of accreditation shall be issued to certified public accountants in public practice only upon showing that such registrant has acquired a minimum of 3 years meaningful experience in any of the areas of public practice including taxation.</p>	<p>A. It is in accordance with the provisions of existing laws, international treaty obligations including mutual recognition agreements entered into by the Philippine Government with other countries; and</p> <p>B. He/she can prove, in the manner provided by the rules of court that, by specific provision of law, the country of which he/she is a citizen, subject or national admits citizens of the Philippines to the practice of the same profession without restriction.</p>	
		<p>4) As indicated in the horizontal section for Professional Services.</p>	<p>4) As indicated in the horizontal section for Professional Services.</p>	
d. Architectural Services (8671)	SS	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p>	

	<p>3) A firm, company, partnership, corporation or association may be registered or licensed as such for the practice of architecture, provided:</p> <p>A. Only Filipino citizens properly registered and licensed as architects may, among themselves, or together with allied technical professionals, form and obtain registration as a firm, company, partnership, association or corporation for the practice of architecture;</p> <p>B. Registered and licensed architects shall compose at least 75 percent of the owners, shareholders, members incorporators, directors, executive officers, as the case may be;</p> <p>C. Individual members of such firm, partnership, association or corporation shall be responsible for their individual and collective acts as an entity and as provided by law; and</p> <p>D. Such firm, partnership, association or corporation shall be registered with the Securities and Exchange Commission (SEC) and Board of Architecture.</p>	<p>3),4)</p> <p>A. Foreign citizens may be allowed to take licensure exam if he/she can prove, in the manner provided by the Rules of Court that, by specific provision of law, the country of which he/she is a citizen, subject or national either admits citizens of the Philippines to the practice of the same profession without restriction or allows them to practice it after passing an examination on terms of strict and absolute equality with citizens, subjects or national of the country concerned, including the unconditional recognition of prerequisite degrees/diplomas issued by the institutions of learning duly recognized for the purpose by the Government of the Philippines.</p>	
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			<p>B. Foreign nationals who have gained entry in the Philippines to perform professional services as architects or consultants in foreign-funded or assisted projects of the Government or employed or engaged by Filipino or foreign contractors or private firms, shall, before assuming the duties, functions and responsibilities as architects or consultants, secure a special/temporary permit from the Board subject to approval of the PRC to practice his/her profession in connection with the project to which he/she was commissioned, provided:</p>	
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			<p>a. That a foreign national or foreign firm, whose name or company name, with title architect, architectural consultant, design consultant, consultant or designer appear on architectural plans, specifications and other related construction documents, for securing buildings permits, licenses and government authority clearances for actual building project construction in the Philippines and advertisement and billboards for marketing purposes, shall be deemed practicing architecture in the Philippines, whether the contract for professional services is consummated in the Philippines or in a foreign country; and</p> <p>b. That the following conditions are satisfied as follows:</p>	
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			<p>i) That he/she is a citizen or subject of a country which specifically permits Filipino professionals to practice his/her profession within their territorial limits, on the same basis as the subjects or citizens of such foreign state or country;</p> <p>ii) That he/she is legally qualified to practice architecture in his/her own country, and that his/her expertise is necessary and advantageous to our country particularly in the aspects of technology transfer and specialization;</p>	
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			<p>iii) That foreign nationals shall be required to work with a Filipino counterpart and shall also be responsible for public utilities and taxes due to the Philippine Government, relative to their participation in, or professional services rendered to the project, in accordance with the established implementing rules and regulations providing for the procedure for the registration and/or issuance of temporary/special permits to foreign architects allowed by law to practice their profession in the Philippines by the Board of Architecture and the accredited professional organization; and</p>	
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			<p>iv) Agencies, organizations or individuals, whether public or private, who secure the services of a foreign professional authorized by law to practice in the Philippines for reasons aforementioned, shall be responsible for securing a special permit from the PRC and DOLE pursuant to PRC and DOLE rules.</p>	
		4) As indicated in the horizontal section for Professional Services.	4) As indicated in the horizontal section for Professional Services.	
e. Engineering Services (8672)				
Aeronautical Engineering	SS	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p>	



	<p>3) A firm, company or corporation may engage in designing, planning, construction, installation, alteration, manufacture or marketing of any aircraft and its components, accessories, instruments, equipment and supply provided there is certification, supervision or guidance of an aeronautical engineer.</p>	<p>3), 4)</p> <p>A. Citizens of a foreign country may take the licensure exam under existing laws.</p> <p>B. The following may be granted temporary certificates of registration as aeronautical engineer to practice aeronautical engineering in the Philippines:</p> <p>a. Aeronautical engineers from foreign countries called for consultation or for a specific design, construction or project, whose services in the Philippines shall be limited only to such particular work, and such engineers are legally or technically qualified to practice aeronautical engineering in their own country.</p> <p>b. Any person from foreign countries employed as technical officers or professors in such specialized branches of aeronautical engineering as may, in the judgment of the PRC, be necessary and indispensable for the Philippines.</p>	
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		4) As indicated in the horizontal section for Professional Services.	4) As indicated in the horizontal section for Professional Services.	
Agricultural Engineering	SS	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>3) No firm, company, partnership, association or corporation may be registered or licensed as such for the practice of agricultural engineering. However, persons properly registered and licensed as agricultural engineer may among themselves or with a person or persons properly registered and licensed as an agricultural engineer form or obtain registration with the SEC of a firm, partnership or association using the term "Agricultural Engineers," provided all members, partners or associates are duly registered and licensed agricultural engineers.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>3), 4) Foreign agricultural engineers may be issued temporary license to practice/engage in consultancy if the country of which he is a subject or citizen specifically permits Filipino agricultural engineers to practice within its territorial limits on the same basis as the subjects or citizens of such foreign state or country.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Chemical Engineering	SS	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p>	

	<p>3) Duly licensed and registered chemical engineers may form partnerships among themselves or with other licensed and registered engineers and architects and use the title "Chemical Engineers", "Engineers", or "Engineers and Architects" in their partnership name.</p>	<p>3), 4)  A. Registration shall not be required of the following persons upon proper application for exemption with the Board of Chemical Engineering:</p> <p>a. Foreign chemical engineers, recognized as experts in their specific fields of chemical engineering, called in by the Philippine Government for consultation or for a specific design, installation or project, provided that their practice shall be confined to such work; and</p> <p>b. Foreign chemical engineers, who have distinguished themselves in their respective fields of specialization, contracted as professors or lecturers on chemical engineering subjects by Philippine schools, or colleges, institutes or universities on a direct hire or exchange basis, subject to verification of credentials by the Board.</p>	
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		4) As indicated in the horizontal section for Professional Services.	<p>B. Foreign chemical engineers may be granted rights/privileges if the country of which he is a subject or citizen grants the same or similar rights or privileges to Filipino chemical engineers.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Civil Engineering	SS	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p>	

		<p>3) No firm, partnership, corporation or association may be registered or licensed as such for the practice of civil engineering. However, persons properly registered and licensed as civil engineers may, among themselves or with a person or persons properly registered and licensed as architects, form, and obtain registration of, a firm, partnership or association using the term "Engineers" or "Engineers and Architects," provided all members or partners of such firm, partnership or association are duly licensed civil engineers or architects, and the members who are civil engineers shall only render work and services proper for a civil engineer, as defined in the Civil Engineering Law (RA 544, as amended by RA 1582), and the members who are architects shall also only render work and services proper for an architect, as defined in the law regulating the practice of architecture; individual members of such firms, partnership or association shall be responsible for their own respective acts.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>3), 4) A foreigner may be allowed to take the examination if he can prove that the country of which he is a citizen, subject, or national either admits citizens of the Philippines to the practice of the same profession without restriction or allows them to practice it after an examination on terms of strict and absolute equality with citizens, subjects, or nationals of the country concerned, including the unconditional recognition of degrees issued by institutions of learning duly recognized for the purpose by the Government of the Philippines.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Mechanical Engineering	SS	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p>	

	<p>2) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>3) No firm, company, partnership, association or corporation may be registered or licensed as such for the practice of mechanical engineering. However, persons properly registered and licensed as mechanical engineers may form and obtain registration with the SEC of a firm, partnership or association using the term - Mechanical Engineers- and/or -Architect and Mechanical Engineers, provided all members, partners or associates are duly registered and licensed mechanical engineers. The members who are mechanical engineers shall only render work and services proper for mechanical engineers as defined in the Philippine Mechanical Engineering Act (RA 8495).</p>	<p>2) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>3), 4)  A. Temporary/Special Permit from the Board of Mechanical Engineering may be issued to:</p> <p>a. Foreign mechanical engineers, installation, commission or graduate engineers called in for consultation or for a specific design or installation project not requiring more than 3 months residence in the Philippines in a 12 month period, provided that such engineers are legally qualified to practice mechanical engineering in their own country or state in which the requirements and qualifications for obtaining a certificate of registration are at least equal to or more than those specified in the Philippine Mechanical Engineering Act.</p>	
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			<p>b. Foreigners employed as technical officers, training officers or consultants in such special branches of mechanical engineering who are necessary and advantageous for the country particularly in the aspects of technology transfer, provided that such engagements have satisfied conditions, as may be deemed necessary as follows:</p> <p>i) Non-availability of a mechanical engineer and/or mechanic in the country who is competent, able and willing at the time of engagement to perform the service for which the foreigner is desired;</p>	
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			<p>ii) The foreigner must have been in the prior employ of the engaging firm, or its foreign business partner, outside of the Philippines for a period of not less than 1 year immediately preceding the date of his engagement; and</p> <p>iii) Any particular or specific engagement shall not be in excess of 6 months but may be renewed once, if necessary, except when such engagement is for a newly established firm in which case the period of engagement may be for a longer term but not to exceed a total term of 2 years.</p>	
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			<p>B. Certificate of registration may be issued to a foreigner if the country of which he is a subject or citizen, in the spirit of reciprocity, permits Filipino mechanical engineers and/or mechanics to practice within its territorial limits on the same basis as the subject or citizens of such country or state.</p>	
		4) As indicated in the horizontal section for Professional Services.	4) As indicated in the horizontal section for Professional Services.	
Sanitary Engineering	SS	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>3) A firm, partnership, corporation or association may engage in the practice of sanitary engineering in the Philippines, provided that such practice is carried out under the supervision of a sanitary engineer or sanitary engineers holding valid certificates issued by the Board of Sanitary Engineering.</p>	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>3), 4) A foreigner may be allowed to take examination if he can prove that the country of which he is a citizen, subject, or national either admits citizens of the Philippines to the practice of the same profession without restriction or allows them to practice it after an examination on terms of strict and absolute equality with citizens, subjects, or nationals of the country concerned, including the unconditional recognition of degrees issued by institutions of learning duly recognized for the purpose by the Government of the Philippines.</p>	

		4) As indicated in the horizontal section for Professional Services.	4) As indicated in the horizontal section for Professional Services.	
Electrical Engineering	SS	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>3) No firm or corporation may be registered or licensed as such for the practice of electrical engineering. However, persons properly qualified and licensed as professional electrical engineers may, among themselves, form a partnership or association and collectively render electrical engineering service. Individual members of such partnerships or associations shall be responsible for their own respective acts.</p>	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>3), 4)  A. Examination and registration shall not be required of foreign electrical engineers, erection/commissioning/graduate engineers employed as technical consultants by the Philippine Government or by private firms provided no qualified Filipino professional is available or of foreign electrical installers for the erection and installation of a special project or for any other specialized work, provided:   a. They are legally qualified to practice the profession in their country in which the requirements for obtaining license/certificate of registration are not lower than those specified in the New Electrical Engineering Law (RA 7920);</p>	

		<p>4) As indicated in the horizontal section for Professional Services.</p>	<p>b. The scope of practice is limited to particular work contracted;</p> <p>c. They shall not engage in private practice;</p> <p>d. For every foreign professional contracted, one registered Filipino understudy shall be employed by the private firm utilizing the services of such foreign professional during his tenure with the firm; and</p> <p>e. Exemption is good only for 6 months, renewable for another 6 months.</p> <p>B. Foreign engineers may be admitted to take the board exam/be given certificate of registration/be entitled to rights and privileges if his country specifically permits Filipino engineers to practice within its territorial limits on same basis as subjects/citizens of such country.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
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<p>Naval Architecture &amp; Marine Engineering</p>	<p>SS</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3) A firm, partnership, corporation or association may engage in the practice of naval architecture and marine engineering in the Philippines provided that such practice is carried out under the supervision of a naval architect and marine engineer or naval architects and marine engineers holding valid certificates of registration issued by the Board of Naval Architecture and Marine Engineering.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3), 4) A foreigner may be allowed to take the board examination if he is a citizen, subject or national of a country that either admits citizens of the Philippines to the practice of naval architecture and marine engineering without restriction or allows them to practice the profession after an examination on terms of strict and absolute equality with citizens, subjects or nationals of said country, including the unconditional recognition of degrees issued by institutions of learning duly recognized for the purpose by the Government of the Philippines.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
<p>Metallurgical Engineering</p>	<p>SS</p>	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by the Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by the Philippine Government.</p>	

	<p>3) A firm, co-partnership, company, corporation or association can practice metallurgical engineering in the Philippines, provided that such practice is carried out by metallurgical engineers holding valid certificates of registration issued by the Board of Metallurgical Engineering and in the regular employ of said firm, co-partnership, company, corporation or association.</p>	<p>3), 4)</p> <p>A. A foreigner may take the licensure exam and register under reciprocity provisions, i.e., if the country of a foreign applicant permits Filipino metallurgical engineers to practice their profession in the said foreign country on the same basis as, and with the same privileges accorded to, subjects or citizens of the foreign state or country.</p> <p>B. Registration shall not be required of the following classes of persons upon proper application for exemption with the Board:</p> <p>a. Foreign consultants, engineers and technicians called in by the government for consultation or for specific assignment or project.</p>	
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			<p>b. Foreign consultants, engineers and technicians employed by private firms, provided that no qualified Filipino is available, in which case the Board may allow them to practice without registration and the period of employment shall be for 1 year extendable for another year but not to exceed 3 years for any one individual.</p> <p>Provided:</p> <ul style="list-style-type: none"><li>i) That the applicant is of good reputation and moral character;</li><li>ii) That the applicant's curriculum vitae and detailed description of his assignment shall be submitted to the Board together with his application for exemption;</li></ul>	
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			<p>iii) That the applicant will not engage in private practice on his own account;</p> <p>iv) That for every applicant, one registered Filipino understudy shall be employed by the private firm utilizing the services of such applicants for at least the duration of the foreign expert's tenure with said firm; and</p> <p>v) That the applicant is legally qualified to practice his profession in his own state or country and that the country of which he is a citizen or subject permits Filipino metallurgical engineers and metallurgists to practice their profession within its territorial limits.</p>	
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			<p>C. Foreign metallurgists or metallurgical engineers, who had been in the actual and bona fide practice or metallurgy or metallurgical engineering for at least 5 consecutive years in the Philippines as approved by the Board may be registered as metallurgical engineer without examination; provided, that the country of which he is citizen or subject permits Filipino metallurgical engineers or metallurgists to practice their profession within its territorial limits.</p> <p>D. Foreigners may practice or offer to practice metallurgy or metallurgical engineering in the Philippines if the country of which he is a citizen permits Filipino metallurgical engineers to practice their profession within their territorial limits.</p>	
		4) As indicated in the horizontal section for Professional Services.	4) As indicated in the horizontal section for Professional Services.	
Electronics Engineering	SS	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	



	<p>3) No firm, company, partnership, association or corporation may be registered or licensed as such for the practice of electronics engineering and electronics technician. However, persons properly registered and licensed as Professional Electronics Engineers, Electronics Engineers or Electronics Technicians may, among themselves or with any other allied professionals, form a partnership or association or corporation and collectively render services as such, provided that individual members of such partnerships or associations or corporations shall be responsible for their own respective acts.</p>	<p>3),4)  A. No examination and registration shall be required for foreign Professional Electronics Engineers, Electronics Engineers or Electronics Technicians who are temporarily employed by the Philippine Government or by private firms in the Philippines in the following cases:</p> <p>a. No qualified equivalent Filipino professional is available for the specific item of work to be rendered, as attested to by the Accredited Professional Organization.</p> <p>b. The conditions of the scope and funding for the work or project are such that it stipulates the temporary employment of a foreign professional.</p>	
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			<p>c. As defined in the General Agreement on Trade in Services, the ASEAN and APEC Engineer Registry programs and other similar international treaties, agreements and/or covenants to which the Philippine Government is a signatory and has ratified, provided:</p> <p>i) The foreign professional is legally qualified to practice in his own country in which licensing/and registration requirements are not lower than those specified in the Electronics Engineering Law (RA 9292);</p> <p>ii) The work to performed by the foreign professional is limited to that specified in the contract;</p>	
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			<ul style="list-style-type: none"> <li>iii) The foreign professional shall secure a Special Permit from Board of Electronics Engineering which shall be subject to the approval of the PRC prior to commencement of work and no working visa and/or permit shall be issued unless such Special Permit is granted first;</li> <li>iv) The foreign professional shall not engage in private practice;</li> <li>v) For every foreign professional, at least 2 corresponding registered Filipino professionals shall be employed as counterparts in the duration of work; and</li> </ul>	
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			<p>vi) The Special Permit shall be valid for not more than 6 months and renewable every 6 months thereafter subject to approval by the Board of Electronics Engineering and PRC.</p>	
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		<p>4) As indicated in the horizontal section for Professional Services.</p>	<p>B. Foreign professionals may be admitted for registration as Professional Electronics Engineer, Electronics Engineer or Electronics Technician with or without examination if he/she proves in the manner as provided by the Board that, by specific provisions of law, the country, state or province of which he/she is a citizen, subject or national, or in accordance with international treaties, agreements and/or covenants to which their country, state or province is a signatory, admits Filipino citizens to practice as Professional Electronics Engineer, Electronics Engineer or Electronics Technician after an examination or registration process on terms of strict and absolute equality with the citizens, subjects or nationals of said country, including the unconditional recognition of professional licenses issued by the Board and/or the PRC and prerequisite degrees/diplomas issued by institutions of learning duly recognized by the Government of the Philippines.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
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Mining Engineering	SS	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3) Corporate practice is not allowed.</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3), 4)</p> <p>A. Registration shall not be required of the following persons:</p> <p>a. Mining engineering practitioners engaged by Government for consultation/ specific purpose of mining industry.</p> <p>b. Foreigners employed by private firms as technical consultants if no qualified Filipino is available provided:</p> <p>i. Applicant's curriculum vitae is submitted to Board of Mining Engineering prior to arrival in the Philippines;</p> <p>ii. Applicant will not engage in private practice;</p>	
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			<ul style="list-style-type: none"><li>iii. For every foreign applicant, one registered Filipino understudy shall be employed by private firm utilizing the foreigner's services for the duration of the foreigner's tenure;</li><li>iv. Exemption is only good for 6 months renewable for another 6 months at the discretion of the Board;</li><li>v. Certificate of exemption shall be secured; and</li><li>vi. Each private firm is allowed a maximum of 3 consultants at any one time.</li></ul> <p>B. A foreigner may be admitted to take the exam if its country accords reciprocity with the Philippines.</p>	
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		4) As indicated in the horizontal section for Professional Services.	<p>C. Foreign mining engineers may be granted rights/privileges if the country of which he is a subject permits Philippine mining engineers to practice within its territorial limits on the same basis as the subject or citizen of such country.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Geodetic Engineering	SS	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	



		<p>3) No firm, company, partnership, association or corporation may be registered or licensed as such for the practice of Geodetic Engineering. However, persons properly registered and licensed as Geodetic Engineers may among themselves or with a person or persons properly registered and licensed as Geodetic Engineer, may form and obtain registration with the SEC of a firm, partnership or association using the term "Geodetic Engineers," but nobody shall be a member, partner or associate unless he is a duly registered and licensed Geodetic Engineer, and the members who are Geodetic Engineers shall only render work and services proper for a Geodetic Engineer as defined by law.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>3), 4) Foreign geodetic engineers may be issued a temporary license to practice the Geodetic Engineering profession or consultancy thereof or be entitled to any of the rights and privileges under the Philippine Geodetic Engineering Act (RA 8560) if the country of which he is a subject or citizen specifically permits Filipino Geodetic Engineers to practice within its territorial limits on the same basis as the subjects or citizens of such foreign state or country.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
g. Urban (Environmental) Planning (86741, 91123)	SS	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3) A consulting firm, partnership, company, corporation, or association may engage in the practice of environmental planning in the Philippines, provided:</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3), 4) Valid temporary/ special permit duly issued by the Board of Environmental Planning or PRC is required to practice the profession.</p>	

		<p>A. Entity is registered as such with the Board of Environmental Planning;</p> <p>B. At least 75 percent of the entire membership of the board of the corporation/partnership/firm/association are registered environmental planners and at least 75 percent of total capitalization is owned by them; and</p> <p>C. The practice of consulting entity is carried out by duly registered environmental planners.</p>		
		4) As indicated in the horizontal section for Professional Services.	4) As indicated in the horizontal section for Professional Services.	
g. Landscape Architectural Services (86742)	SS	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	

	<p>3) Persons properly registered/licensed as Landscape Architects may among themselves, or with persons properly registered/licensed in any field related to Landscape Architecture such as town/urban planning, civil engineering, architecture and interior design, forestry and other fields of specialization, form and obtain registration with the SEC for a partnership, association, or corporation using the terms such as 'Landscape Architects', 'Landscape Architects and Planners', 'Architects and Landscape Architects' or any such appropriate term, provided:</p> <p>A. 80 percent of members of the partnership, association or corporation are persons properly registered/licensed landscape architects;</p> <p>B. Individual partners, stockholders or members are personally and jointly responsible, and liable to the partnership, association or corporation for their respective acts in the practice of their respective professions; and</p>	<p>3), 4)</p> <p>A. Foreign Landscape Architects may be registered/issued a Certificate of Registration/ Professional License to practice the profession if the country of which they are subjects/citizens specifically permits Filipino Landscape Architects to practice within its territorial limits on same basis as subjects/citizens of such foreign state/country.</p> <p>B. Foreign nationals performing professional services as Landscape Architects/consultants in foreign-funded joint venture/assisted project of the Philippine Government or those employed/engaged by Philippine/ foreign contractors/private firm shall secure a special/temporary permit from the Board of Landscape Architecture, subject to approval by PRC and DOLE, provided:</p>	
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	<p>C. The partnership, association or corporation is responsible and liable for all other contractual obligations of the partnership, association or corporation. The managing partner of the partnership or the president of the corporation or their authorized representatives are authorized to enter into contracts for such services. However, only a partner or stockholder who is registered/licensed professional is responsible for and signs plans and documents involving the practice of his/her profession.</p>	<p>a. That he/she is a citizen or subject of a country which specifically permits Filipino professionals to practice his/her profession within its territorial limits on the same basis as the subjects or citizens of such foreign country or state;</p> <p>b. That he/she is legally qualified to practice Landscape Architecture in his/her own country, and that his/her expertise is necessary and advantageous to the Philippines particularly in the aspects of technology transfer and specialization;</p> <p>c. Foreign nationals shall be required to work with a Filipino counterpart, and professional fees, services, and expenses of documentation pertaining to the project shall be shared by both;</p>	
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			<p>d. Foreign and Filipino Landscape Architects shall jointly and severally bear all liabilities and taxes due the Philippine Government, if any, according to their participation in, or professional services rendered to the project; and</p> <p>e. Foreign professional shall obtain from DOLE employment permit which may be issued to non-resident alien or applicant-employer after determination of non-availability of competent/able/willing Filipino, provided foreign country observes reciprocal conditions for Filipino nationals.</p>	
		4) As indicated in the horizontal section for Professional Services.	4) As indicated in the horizontal section for Professional Services.	
h., i., j. Health Professionals				
Medicine (9312**)	SS	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	

		<p>3) Corporate practice is not allowed.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>3), 4) Foreigners may take the licensure exams provided he is a citizen of a country whose existing laws permit citizens of the Philippines to practice medicine under the same rules and regulations governing citizens thereof.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Nursing (93191**)	SS	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3) Corporate practice is not allowed.</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3), 4) A. Foreigners may take the licensure exam if they are citizens or subjects of a country which permits Filipino nurses to practice within its territorial limits on the same basis as the subject or citizen of such country, provided that the requirements for the registration or licensing of nurses in said country are substantially the same as those prescribed in the Philippine Nursing Act (RA 9173).</p>	

			<p>B. A certificate of registration/ professional license may be issued without examination to nurses registered under the laws of a foreign state or country, provided that the requirements for registration or licensing of nurses in said country are substantially the same as those prescribed under the Philippine Nursing Act and the laws of such state or country grant the same privileges to registered nurses of the Philippines on the same basis as the subjects or citizens of such foreign state or country.</p> <p>C. Special/temporary permit may be issued by Board of Nursing to foreign licensed nurses if they are:</p> <ul style="list-style-type: none"> <li>a. Internationally well-known specialists/ outstanding experts in any nursing specialty;</li> <li>b. On free medical mission in particular hospital/center/ clinics; or</li> <li>c. Employed by nursing schools/ colleges as exchange professors in any nursing branch/specialty.</li> </ul>	
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		4) As indicated in the horizontal section for Professional Services.	4) As indicated in the horizontal section for Professional Services.	
Dentistry services (9312**)	SS	1) Unbound* 2) None 3) Corporate practice is not allowed.  4) As indicated in the horizontal section for Professional Services.	1) Unbound* 2) None 3), 4) Certificates of registration shall not be required from the following provided that a previous authority has been granted by the Board of Dentistry:  A. Commissioned dental officers of foreign army/navy/air force whose operations in the Philippines are permitted by the Government.  B. Foreign dentists/oral surgeons invited for consultations/demonstrations.  4) As indicated in the horizontal section for Professional Services.	
Optometry		1) Unbound* 2) None	1) Unbound* 2) None	



	<p>3) Corporate practice is not allowed.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>3), 4)</p> <p>A. Foreigners may be admitted to take the board exams if the country of which they are citizens, subjects or nationals, either admits Filipino citizens to the practice of optometry without restriction, or allows them to practice optometry after an examination on terms of strict and absolute equality with citizens, subjects or nationals of said country, including the unconditional recognition of prerequisite degrees.</p> <p>B. Special permit may be granted to a foreign optometrist to practice the profession in this country whether or not reciprocity exists between his country and the Philippines, provided:</p> <p>a. He is internationally known to be an outstanding expert/well-known specialist; or</p> <p>b. His services will promote professional advancement in the Philippines.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
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Midwifery (93191**)	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) Corporate practice is not allowed.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3), 4) Rights/privileges under the Philippine Midwifery Act (RA 7392) may be granted to foreign midwives if the country of which he or she is a citizen, subject or national, permits Filipino midwives to practice midwifery within its territorial limits on the same basis as the citizen, subject or national of such country, provided that the requisites for admission to midwifery school and for graduation in said country are substantially the same as those in the Philippines.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Medical Technology		<p>1) Unbound*</p> <p>2) None</p> <p>3) Corporate practice is not allowed.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3), 4) A foreigner may be admitted to the board examination or given a Certification of Registration or entitled to rights/privileges under the Philippine Medical Technology Act (RA 5527, as amended by RA 6132, PD 498 and PD 1534) if the country or state of which he is a subject or citizen permits Filipino Medical Technologist to practice within its territorial limits on the same basis as the subject or citizens of said country or state.</p>	

		4) As indicated in the horizontal section for Professional Services.	4) As indicated in the horizontal section for Professional Services.	
Veterinary medicine (932)	SS	1) Unbound* 2) None 3) Corporate practice is not allowed.  4) As indicated in the horizontal section for Professional Services.	1) Unbound* 2) None 3), 4) A foreigner may be admitted to take the exams or be registered as veterinarians if the country of which he/she is citizen permits Filipino citizens to practice the profession without need for registration, or allows them to practice after an examination on terms of strict/absolute equality with nationals of said country.  4) As indicated in the horizontal section for Professional Services.	
Physical and Occupational Therapy (93191**)	SS	1) Unbound* 2) None 3) Corporate practice is not allowed.	1) Unbound* 2) None 3), 4) A. A foreigner may be admitted to exams if the country of which he is a subject or citizen permits Filipino physical therapists and occupational therapists to practice within its territorial jurisdiction on the same basis as the subjects or citizens of such country; and	

		4) As indicated in the horizontal section for Professional Services.	<p>B. Any physical therapist, physiatrist or occupational therapist holding valid certificate of registration issued under the laws of a foreign country may practice his profession in the Philippines without passing an examination if the requirements for the registration and licensing of a physical therapy, physiatrist or occupational therapist in such foreign country are substantially the same as those provided for by the Philippine Physical and Occupational Therapy Law (RA 5680) and that the laws of such country or state grant the same privileges to physical therapist, physiatrists and occupational therapists registered in the Philippines on the same basis as the subjects or citizens of such foreign country or state.</p>	
Radiologic Technology		<p>1) Unbound*</p> <p>2) None</p>	<p>1) Unbound*</p> <p>2) None</p>	

		<p>3) Corporate practice is not allowed.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>3), 4) Examination shall not be required of radiologists from other countries invited for lectures or consultation or as visiting or exchange professors to colleges or universities duly recognized by the Government; provided, that such radiologist technologist are legally qualified to practice as such in their own state or country; that they shall secure a special permit from the Board of Radiologic Technology; and their countries give similar privilege to their Filipino counterparts.</p> <p>4) As indicated in the horizontal section for Professional Services</p>	
k. Other				
Criminology	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) Corporate practice is not allowed.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3), 4) Registration shall not be required of the following:</p> <p>A. Foreign criminologists called in for consultations or for a special project related to Criminology not requiring more than 5 months residence in the Philippines in any 12 months period; provided, that such criminologists are legally qualified to practice as such in their own State or country.</p>	

		4) As indicated in the horizontal section for Professional Services.	<p>B. Foreigners employed as technical officers, professors or consultants in such special branches of Criminology or may, in the judgment of the President of the Philippines, be necessary and indispensable for the country; provided that they are internationally recognized experts and they do not engage in private practice during their stay in the Philippines.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Chemistry	SS	<p>1) Unbound*</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3) A firm or co-partnership, or corporation, or an association, may engage in the practice of chemistry in the Philippines, provided only that such practice is carried on by chemists holding valid certificates of registration issued by the Board of Chemistry. The manager/administrator of the business is held personally liable for any violation of the Act to Regulate the Practice of Chemistry in the Philippines (RA 754).</p>	<p>1) Unbound*</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3), 4) A. Foreign chemists are exempt from registration provided they are:</p>	

			<p>a. Called in for consultations or for a project not requiring more than 6 months residence in the Philippines in any 12 months' period; provided that such chemists are legally qualified to practice chemistry in their own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in the Act to Regulate the Practice of Chemistry in the Philippines;</p> <p>b. Employed as technical officers, professors or consultants in such special branches of chemistry as may, in the judgment of the President of the Philippines, be necessary and indispensable for the country; provided that they are internationally recognized experts and that they do not engage in private practice.</p>	
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		4) As indicated in the horizontal section for Professional Services.	<p>B. Foreign chemists may be admitted to take exam/given a certificate of registration, provided that he is a subject or citizen of a country which permits Filipino chemists to practice within its territorial limits on the same basis as the subjects or citizens of said country or State.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Forestry	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) Corporate practice is not allowed.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3), 4) Examinations shall not be required of the following persons:</p> <p>A. Holders of the degree of Bachelor of Science in Forestry or its equivalent or a higher forestry degree, provided that they have at least 10 years experience in technical forestry work either in the Government or with a private forestry enterprise, or both, or they have passed a civil service examination for foresters.</p>	



		4) As indicated in the horizontal section for Professional Services.	<p>B. Forestry experts from other countries who are called in by the Philippine Government for consultation on forestry matters, provided that they have qualified in their respective countries in appropriate forestry examinations, or if no forestry examinations are given therein, that their expertise be certified by the proper Philippine diplomatic or consular representative therein.</p> <p>C. Forestry experts from other countries under contract with and working for local private forestry enterprises, provided that they have qualified in their respective countries in appropriate forestry examinations or if no forestry examinations are given therein, that their expertise be certified by the proper Philippine diplomatic or consular representative therein.</p>	
Librarianship	SS	<p>1) Unbound*</p> <p>2) None</p>	<p>1) Unbound*</p> <p>2) None</p>	

		3) Corporate practice is not allowed.	3), 4) A foreign librarian may be admitted for licensure examination, be issued a Certificate of Registration and Professional Identification Card and be entitled to the rights and privileges, if the country or state he/she is a citizen of or subject, permits Filipino librarians to practice on the same basis as the citizens or subjects of said country or state, provided that the requirements for Certificate of Registration in said country or state are substantially the same as the requirements under the Philippine Librarianship Act (RA 9246) and the law of such country or state grants Filipino librarians the same privileges as the citizens/subjects of that country/state.	
		4) As indicated in the horizontal section for Professional Services.	4) As indicated in the horizontal section for Professional Services.	
Merchant Marine Profession <sup>3</sup>	SS	1) Unbound* 2) None	1) Unbound* 2) None	

3 Refers to the profession requiring the application of fundamental and known principles of navigation, seamanship and engineering to the peculiar condition and requirements of on board management, operation and maintenance of main propulsion and auxiliary engines, stability and trim of the vessel and cargo handling. It shall also cover:

Merchant Marine Officer, which refers to marine deck or engineer officer.

Merchant Marine Deck Officer, which refers to a duly registered, certified and licensed master mariner, chief mate and officer-in-charge of a navigational watch.

Merchant Marine Engineer Officer which refers to a duly registered, certified and licensed chief engineer, second engineer, and officer-in-charge of an engineering watch in a manned engine room or designated duty engineer in a periodically unmanned engine room, and coastal engineer.

		<p>3) Corporate practice is not allowed.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>3), 4) A foreigner holding a Certificate of Competency (CoC) issued by his national administration in accordance with the Standards of Training, Certification and Watchkeeping for Seafarers 1978 Convention, as amended, may be issued a special dispensation, subject to the conditions specified by the Maritime Industry Authority (MARINA), to serve on board a Philippine registered vessel engaged in international trade; provided, the Philippine CoC issued/endorsed by the Board of Marine Deck Officers and Board of Marine Engineer Officers is reciprocally recognized by said foreign national administration to allow Filipino merchant marine to practice his/her profession on board the foreigner's flag vessel.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Master Plumbing	SS	<p>1) Unbound*</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	<p>1) Unbound*</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	

	<p>3) Corporate practice is not allowed.</p>	<p>3),4)</p> <p>A. A foreigner may be allowed to take the examination if the foreign country or state of which he is a citizen, subject, or national, either admits citizens of the Philippines to engage in the same trade without restriction or allows them to practice it after an examination on terms of strict and absolute equality with citizens, subjects, or nationals of the country concerned, including the unconditional recognition of degrees issued by institutions of learning duly recognized for the purpose by the Government of the Philippines.</p> <p>B. Examination and registration shall not be required of the following persons:</p> <p>a. Officers or enlisted men of the Armed Forces of the United States and of the Philippines and civilian employees of the Government of the United States stationed for the United States and/or the Philippines.</p>	
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		4) As indicated in the horizontal section for Professional Services.	<p>b. Plumbing experts called in by the Philippine Government for consultation in connection with certain specific construction, provided that their services shall be limited to such work.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Social Work	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) No social work agency, as defined in the Act to Regulate the Practice of Social Work and the Operation of Social Work Agencies in the Philippines (RA 4373), shall separate and be accredited as such unless it shall first have registered with the Social Welfare Administration which shall then issue the corresponding registration certificate. Before any social work agency shall be duly registered, the following requirements must have been complied with to the satisfaction of the Social Welfare Administrator:</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3), 4) A certificate of registration may be issued without examination to social workers registered under the laws of any foreign state or country, provided:</p> <p>A. Registration or licensing requirements of social workers in the said foreign state or country, are substantially the same as those required and contemplated by the Act to Regulate the Practice of Social Work and the Operation of Social Work Agencies in the Philippines; and</p>	

		<p>A. That the applicant must be engaged mainly or generally in social work activity;</p> <p>B. That the applicant has employed a sufficient number of duly qualified and registered social workers to supervise and take charge of its social work function in accordance with accepted social work standards;</p> <p>C. That the applicant must show in a duly certified financial statement that at least sixty percent of its funds are disbursed for direct social work services; and</p> <p>D. That the applicant keeps a social work record of all cases and welfare activities handled by it.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>B. The laws of such state or country grant the same privileges to Filipino social workers on the same basis as the subject or citizens of such foreign state or country.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Agriculture	SS	<p>1) Unbound*</p> <p>2) None</p>	<p>1) Unbound*</p> <p>2) None</p>	

		<p>3) Corporate practice is not allowed.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>3), 4) A foreigner may be admitted to sit in licensure exam and/or registered as agriculturist/issued a license/temporary permit to practice agriculture profession provided foreigner's country allows Filipinos same privileges, including recognition of prerequisite degrees.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Fisheries	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) Corporate practice is not allowed.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3), 4) A foreigner may be admitted to sit in licensure exam and/or given a license/temporary permit to practice the profession provided foreigner's country accords Filipinos the same privileges including recognition of prerequisite degrees.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Interior Design	SS	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	

	<p>3) No firm, company, partnership, association or corporation may be registered or licensed as such for the practice of interior design: provided, however, that persons properly registered and licensed as interior designers may among themselves or with a person or persons properly registered and licensed as building architects, town planners, landscape architects, civil engineers and any other allied design professionals, may form and obtain registration with the SEC of a firm, partnership or association using the term "Interior Design," "Interior Designers and Planners" or "Architect and Interior Designer" but nobody shall be a member, partner or associate unless he is a duly registered and licensed design professional, and the members who are interior designers shall only render work and services proper for an interior designer as defined by law.</p>	<p>3),4)</p> <p>A. A temporary license to practice the interior design profession or consultancy thereof may be given to a foreign interior designer if the country of the foreigner permits Filipino interior designers to practice within its territorial limits on the same basis as the subjects or citizens of such foreign state or country.</p> <p>B. A temporary/special permit may be given to foreign nationals who have gained entry in the Philippines to perform professional services as interior designers or consultants in foreign-funded or assisted projects of the Philippine Government, or employed or engaged by Filipino or foreign contractors or private firms to practice his profession in connection with the project to which he was commissioned, provided:</p>	
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			<p>a. That he is a citizen or subject of a country which specifically permits Filipino professionals to practice his profession within their territorial limits, on the same basis as the subjects or citizens of such foreign state or country;</p> <p>b. That he is legally qualified to practice interior design in his own country, and that his expertise is necessary and advantageous to the Philippines particularly in the aspects of technology transfer and specialization; and</p>	
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			<p>c. That foreign nationals shall be required to work with a Filipino counterpart and professional fees and services, and expenses of documentation pertaining to the project shall be shared by both foreign and Filipino interior designers, including liabilities and taxes due to the Philippine Government, if any, according to their participation in, or professional services rendered to, the project.</p>	
		4) As indicated in the horizontal section for Professional Services.	4) As indicated in the horizontal section for Professional Services.	
Geology	SS	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p>	

	<p>3) A firm, co-partnership, company, corporation, or association can practice geology in the Philippines, provided that such practice is carried out by geologists holding valid certificates of registration issued by the Board of Geology and in the regular employ of said firm, co-partnership, company, corporation or association. In case of a firm, co-partnership, company, corporation or association, the manager, administrator, or the person who has charge of the management or administration of the business shall be held personally liable for any violation of the Geology Profession Law of the Philippines (RA 4209).</p>	<p>3),4)</p> <p>A. In order to be admitted to the examination for geologists, foreign applicants shall satisfy exam requirements for Filipinos, provided the foreign country accords the same reciprocity with the Philippines.</p> <p>B. Exempt from registration are qualified geologists or geological engineers that are:</p> <p>a. Called in by the Government for consultation or for conduct of a specific geological investigation: provided, that his or her practice shall be confined to said consultation or investigation, and prior written permission is secured from the Board.</p> <p>b. Called in by a bonafide corporation registered under the laws of the Philippines, for consultation on or for conduct of a specific investigation, provided:</p>	
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		<p>4) As indicated in the horizontal section for Professional Services.</p>	<p>i. That his or her practice is confined to said consultation or investigation;</p> <p>ii. That such consultation or investigation shall not last longer than 6 months, renewal under authority of the Board for an additional period of not more than six months;</p> <p>iii. That such geologist or geological engineer is legally qualified to practice as geologist or geological engineer in his or her state or country; and</p> <p>iv. That his or her state or country grants the same reciprocity to Filipino citizens.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
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Professional Teachers	SS	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3) Corporate practice is not allowed.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>1) None, except services outputs cannot be recognized by Philippine Government.</p> <p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3), 4) A foreign teacher may be admitted to the examination, or be given a certificate of registration if the foreign country or state of which he is a subject permits Filipino professional teachers to practice within its territorial limits on the same basis as subjects or citizens of said country or state, provided:</p> <p>A. The requirements of certification of teachers with said foreign state or country are substantially the same as those required and contemplated in the Philippine law on professional teachers; and</p> <p>B. The laws of such state or country grant the same privilege to Filipino professional teachers on the same basis as the subject or citizens of such foreign country or state.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
Customs Brokerage		1) Unbound*	1) Unbound*	

		<p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3) Corporate practice is not allowed.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	<p>2) None, except services outputs cannot be recognized by Philippine Government.</p> <p>3), 4) A. Foreigners may be admitted to licensure examination/be given a certificate of registration/professional license/be entitled to privileges if foreign country allows Filipino professional customs brokers to practice within its territorial limits on same basis as citizens of foreign country.</p> <p>B. Special/temporary permits may be issued to professional customs brokers from foreign countries whose services are urgently needed in the absence or inadequacy of local professional customs brokers for the purpose of promoting or enhancing the practice of the profession in the Philippines.</p> <p>4) As indicated in the horizontal section for Professional Services.</p>	
B. Computer and Related Services				
a. Consultancy services related to the installation of computer hardware (8410)	SS	<p>1) None</p> <p>2) None</p> <p>3) 100 percent foreign equity participation is allowed in the following cases:</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	

		<p>A. paid-in equity capital is not less than US\$200,000 for domestic market enterprises; or</p> <p>B. paid-in equity capital is not less than US\$100,000 for domestic market enterprises employing at least 50 direct employees; or</p> <p>C. paid-in equity capital is not less than US\$100,000 for domestic market enterprises involving advanced technology as determined by the DOST; or</p> <p>D. the service provider exports 60 percent or more of its output.</p> <p>Otherwise, only up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Natural persons are allowed in the following cases:</p> <p>A. paid-in equity capital is not less than US\$200,000 for domestic market enterprises; or</p> <p>B. paid-in equity capital is not less than US\$100,000 for domestic market enterprises employing at least 50 direct employees; or</p>	<p>4) Employment of foreign professionals:</p> <p>As indicated in the horizontal section for Professional Services.</p>	
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		<p>C. paid-in equity capital is not less than US\$100,000 for domestic market enterprises involving advanced technology as determined by the DOST; or</p> <p>D. he exports 60 percent or more of his output.</p> <p>Employment of foreign professionals:</p> <p>As indicated in the horizontal section for Professional Services.</p> <p>Limitations listed in the horizontal section shall also apply.</p>		
<p>b. Software implementation services</p> <ul style="list-style-type: none"> <li>- Systems and software consulting services (8421)</li> <li>- Systems design services (8423)</li> <li>- Programming services (8424)</li> <li>- Systems maintenance services (8425)</li> </ul>	SS	<p>1) None</p> <p>2) None</p> <p>3) 100 percent foreign equity participation is allowed in the following cases.</p> <p>A. paid-in equity capital is not less than US\$200,000 for domestic market enterprises; or</p> <p>B. paid-in equity capital is not less than US\$100,000 for domestic market enterprises employing at least 50 direct employees; or</p> <p>C. paid-in equity capital is not less than US\$100,000 for domestic market enterprises involving advanced technology as determined by the DOST; or</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	



		<p>D. the service provider exports 60 percent or more of its output.</p> <p>Otherwise, only up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Natural persons are allowed in the following cases:</p> <p>A. paid-in equity capital is not less than US\$200,000 for domestic market enterprises; or</p> <p>B. paid-in equity capital is not less than US\$100,000 for domestic market enterprises employing at least 50 direct employees; or</p> <p>C. paid-in equity capital is not less than US\$100,000 for domestic market enterprises involving advanced technology as determined by the DOST; or</p> <p>D. he exports 60 percent or more of his output.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	4) None	
c. Data processing services (843)	SS	<p>1) None</p> <p>2) None</p> <p>3) 100 percent foreign equity participation is allowed in the following cases:</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	

		<p>A. paid-in equity capital is not less than US\$200,000 for domestic market enterprises; or</p> <p>B. paid-in equity capital is not less than US\$100,000 for domestic market enterprises employing at least 50 direct employees; or</p> <p>C. paid-in equity capital is not less than US\$100,000 for domestic market enterprises involving advanced technology as determined by the DOST; or</p> <p>D. the service provider exports 60 percent or more of its output.</p> <p>Otherwise, only up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Natural persons are allowed in the following cases:</p> <p>A. paid-in equity capital is not less than US\$200,000 for domestic market enterprises; or</p> <p>B. paid-in equity capital is not less than US\$100,000 for domestic market enterprises employing at least 50 direct employees; or</p>	<p>4) None</p>	
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		<p>C. paid-in equity capital is not less than US\$100,000 for domestic market enterprises involving advanced technology as determined by the DOST; or</p> <p>D. he exports 60 percent or more of his output.</p> <p>Limitations listed in the horizontal section shall also apply.</p>		
E. Rental/Leasing Services without Operators				
Leasing or rental services concerning vessels without operators (83103)	SS	<p>1) None</p> <p>2) None</p> <p>3) Up to 40 percent foreign equity participation is allowed. Bareboat charter or lease contract subject to approval by the MARINA.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) None, except as indicated in the horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p> <p>4) None</p>	
F. Other Business Services <sup>4</sup>				
a. Advertising Services (871)	SS	<p>1) None</p> <p>2) None</p> <p>3) Up to 30 percent foreign equity is allowed.</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	

<sup>4</sup> The Philippines shall undertake a review of the laws and/or regulations on placement and supply services of personnel within 2 years after the date of entry into force of this Agreement. The progress of the review will be shared by both sides.

		<p>The participation of foreign investors in the governing body in such industry shall be limited to their proportionate share in the capital thereof.</p> <p>All the executive and managing officers of such entities must be citizens of the Philippines.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) None, except as indicated in the horizontal section.</p>	<p>4) None</p>	
<p>h. Services Incidental to Mining (883)</p> <p>Oil and Gas, Geothermal and Coal Exploration and Development</p>		<p>1) Unbound*</p> <p>2) None</p> <p>3) Up to 40 percent foreign equity participation is allowed.</p> <p>However, the President may enter into service contract agreement with foreign-owned corporation for technical, financial or other forms of assistance involving large-scale exploration, development and utilization of energy resources.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Employment of foreign professionals:</p> <p style="padding-left: 40px;">As indicated in the horizontal section for Professional Services.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p> <p>4) Unbound</p>	

		Limitations listed in the horizontal section shall also apply.		
j. Services Related to Energy Distribution (887)  Energy distribution networks such as pipelines for transmission, distribution and supply of natural gas, and power transmission and distribution lines	SS	1) Unbound* 2) None 3) Up to 40 percent foreign equity participation is allowed.  Limitations listed in the horizontal section shall also apply. 4) Employment of foreign professionals:  As indicated in the horizontal section for Professional Services.  Limitations listed in the horizontal section shall also apply.	1) Unbound* 2) None 3) None, except as indicated in the horizontal section. 4) Employment of foreign professionals:  As indicated in the horizontal section for Professional Services.	
2. COMMUNICATION SERVICES				
A./B. Postal/Courier Services a. Domestic Mail Services - Ordinary Mail - Registered Mail <sup>5</sup> - Express Mail - Domestic Parcel	SS	1) Commercial presence is required. 2) None 3) Entry is subject to the following requirements: A. Foreign equity is permitted up to 40 percent; and	1) None 2) None 3) Entry is subject to the following requirements and conditions:	

5 Postal services that are only offered by the Philippine Postal Corporation (PPC)

<ul style="list-style-type: none"> <li>- Business Reply<sup>6</sup></li> <li>- Printed Matters</li> </ul> <p>b. International Mail Services</p> <ul style="list-style-type: none"> <li>- Ordinary Mail</li> <li>- Registered Mail<sup>7</sup></li> <li>- Express Mail</li> <li>- Printed Matters</li> <li>- International Parcels</li> </ul> <p>c. Money Order Service (Domestic and International)<sup>8</sup></p>		<p>B. Philippine Government authority to operate private express and/or messengerial delivery services.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Provision of postal/courier services is reserved only to Filipino citizens.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>A. The number of non-Filipino citizens in the Board of Directors of an entity shall be proportionate to the aggregate share of foreign capital of that entity; and</p> <p>B. All executives and managers must be citizens of the Philippines.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Provision of postal/courier services is reserved only to Filipino citizens.</p>	
C. Telecommunication services				
The following services are offered only on a facilities basis, for public use, using either wired or wireless technology except cable television (CATV).	SS <sup>9</sup>	<ul style="list-style-type: none"> <li>1) Unbound<sup>10</sup></li> <li>2) None</li> </ul>	<ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> </ul>	The Philippine Reference Paper on Regulatory Principles will be reviewed in the future in accordance with the developments of its laws and regulations.

6 Postal services that are only offered by the Philippine Postal Corporation (PPC)

7 Postal services that are only offered by the Philippine Postal Corporation (PPC)

8 Postal services that are only offered by the Philippine Postal Corporation (PPC)

9 Paragraph 3 of Article 74 shall apply to these commitments with respect to modes 2, 3 and 4 for market access and modes 1, 2, 3, and 4 for national treatment only.

10 Shall be reviewed in the future in accordance with the developments of its laws and regulations.

<p>a. Voice telephone services (7521)</p> <p>Local services</p> <p>Toll services</p> <ul style="list-style-type: none"> <li>- Domestic</li> <li>- International</li> </ul> <p>b. Packet-switched data transmission services (7523**)</p> <p>c. Circuit-switched data transmission services (7523**)</p> <p>d. Telex Services (7523**)</p> <p>e. Telegraph Services (7522)</p> <p>f. Facsimile services (7521**+7529**)</p> <p>g. Private Leased Circuit Services (7522**+7523)</p> <p>o. Cellular Mobile Telephone Service (75213)</p> <p>o. Satellite services</p>	<p>3) Entry is subject to the following requirements and conditions:</p> <ul style="list-style-type: none"> <li>A. Franchise from Congress of the Philippines</li> <li>B. Certificate of Public Convenience and Necessity (CPCN) from the National Telecommunications Commission</li> <li>C. Foreign equity is permitted up to 40 percent.</li> <li>D. Resale of private leased lines is not allowed<sup>11</sup>.</li> <li>E. Private leased circuit services shall not be connected to a public network (PSTN).</li> <li>F. Call back, dial back and other similar schemes, which result in the same operation, are not authorized.</li> <li>G. Subject to the availability and efficient utilization of radio frequencies.</li> <li>H. Only duly enfranchised and certificated telecommunications, broadcast and/or cable TV entities can access satellite space segment service providers.</li> </ul>	<p>3) Entry is subject to the following requirements and conditions:</p> <ul style="list-style-type: none"> <li>A. The number of non-Filipino citizens in the Board of Directors of an entity shall be proportionate to the aggregate share of foreign capital of that entity.</li> <li>B. All executives and managers must be citizens of the Philippines.</li> </ul> <p>Limitations listed in the horizontal section shall also apply.</p>	
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11 Enfranchised public telecommunications entities (PTE) may be authorized to sell/resell private leased lines.

		<p>I. Philippine satellite operators shall be given the preference to provide the space segment capacity requirements of enfranchised entity after all factors are equally considered.</p> <p>J. Satellite space segment service provisioning in the Philippines shall be on the basis of reciprocal arrangements.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Service suppliers must be Filipino citizens.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>4) Service suppliers must be Filipino citizens.</p>	
<p>Data and message transmission services</p> <ul style="list-style-type: none"> <li>- Data network services (75231)</li> <li>- Electronic message and information services (75232)</li> </ul>	SS <sup>12</sup>	<p>1) Unbound<sup>13</sup></p> <p>2) None</p> <p>3) Entry is subject to the following requirements and conditions:</p> <p>A. Franchise from Congress of the Philippines</p>	<p>1) None</p> <p>2) None</p> <p>3) Entry is subject to the following requirements and conditions:</p> <p>A. The number of non-Filipino citizens in the Board of Directors of an entity shall be proportionate to the aggregate share of foreign capital of that entity.</p>	

12 Paragraph 3 of Article 74 shall apply to these commitments with respect to modes 2, 3 and 4 for market access and modes 1, 2, 3, and 4 for national treatment only.

13 Shall be reviewed in the future in accordance with the developments of its laws and regulations.



		<p>B. Certificate of Public Convenience and Necessity (CPCN) from the National Telecommunications Commission</p> <p>C. Foreign equity is permitted up to 40 percent.</p> <p>D. Resale of private leased lines is not allowed<sup>14</sup>.</p> <p>E. Private leased circuit services shall not be connected to a public network (PSTN).</p> <p>F. Call back, dial back and other similar schemes, which result in the same operation, are not authorized.</p> <p>G. Subject to the availability and efficient utilization of radio frequencies.</p> <p>H. Only duly enfranchised and certificated telecommunications, broadcast and/or cable TV entities can access satellite space segment service providers.</p>	<p>B. All executives and managers must be citizens of the Philippines.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	
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14 Enfranchised public telecommunications entities (PTE) may be authorized to sell/resell private leased lines.

		<p>I. Philippine satellite operators shall be given the preference to provide the space segment capacity requirements of enfranchised entity after all factors are equally considered.</p> <p>J. Satellite space segment service provisioning in the Philippines shall be on the basis of reciprocal arrangements.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Service suppliers must be Filipino citizens.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>4) Service suppliers must be Filipino citizens.</p>	
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Philippine Reference Paper on Regulatory Principles in Telecommunications Services

The commitments in telecommunication services are in accordance with the General Agreement on Trade in Services and its Annex on Telecommunications. In support of market access commitments undertaken, the following principles will form the basis for the regulatory framework in basic telecommunications.

1. Competitive safeguard

Appropriate measures shall be maintained for the purpose of preventing suppliers from engaging in or continuing anti-competitive practices.

2. Interconnection

In order to achieve viable, efficient, reliable and universal telecommunications services, a fair and reasonable interconnection of facilities of authorized public network operators and other providers of telecommunications services shall be provided.

Interconnection shall be at any technically feasible point in the network, under non-discriminatory terms and conditions, in a timely fashion, and on terms and conditions that are fair, transparent and reasonable.

A service supplier requesting interconnection with another supplier will have recourse after a reasonable period of time which has been made publicly known to an independent domestic body, which may be a regulatory body referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal Service

Universal service obligations, as may be defined by the appropriate Authority, shall be administered in a transparent, non-discriminatory and competitively neutral manner.

Authorized international gateway and mobile cellular telephone service providers are required by law to install a set number of local exchange lines in designated areas.

4. Public availability of licensing criteria

Where a license is required, the following shall be made publicly available:

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a license;
- (b) the terms and conditions of individual licenses

The reasons for the denial of a license will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

The regulation of telecommunication suppliers shall rely principally on an administrative process that is stable, transparent and fair, giving due emphasis to technical, legal, economic and financial considerations, and with due regard to the observance of due process at all times.

A national consultative forum shall be maintained to allow interaction among the telecommunications industries, user groups, and academic and research institutions on important issues in the field of communications.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, which are frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

Sector or Subsector		Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Value added services i.e. h. electronic mail (7523**) i. voice mail (7523**) j. on-line information and database retrieval (7523**) k. electronic data exchange l. value added facsimile service (7523**) m. code and protocol conversion n. on-line information and/or data processing (843**) videotex	SS <sup>15</sup>	1) Unbound <sup>16</sup> 2) None 3) Entry is subject to the following requirements: A. Foreign equity is permitted up to 40 percent B. Must register with the Philippines regulatory body but is not allowed to build its own network. Limitations listed in the horizontal section shall also apply. 4) Service suppliers must be Filipino citizens. Limitations listed in the horizontal section shall also apply.	1) None 2) None 3) Entry is subject to the following requirements and conditions: A. The number of non-Filipino citizens on the Board of Directors of an entity shall be proportionate to the aggregate share of foreign capital of that entity. B. All executives and managers must be citizens of the Philippines Limitations listed in the horizontal section shall also apply. 4) Service suppliers must be Filipino citizens.	
D. Audiovisual services				
a. Motion picture or video tape production services (96112**)	SS	1) None 2) None	1) None 2) None	

15 Paragraph 3 of Article 74 shall apply to these commitments with respect to modes 2, 3 and 4 for market access and modes 1, 2, 3, and 4 for national treatment only.

16 Shall be reviewed in the future in accordance with the developments of its laws and regulations.

<p>Only animated cartoons of any kind</p>	<p>3) 100 percent foreign equity participation is allowed in the following cases.</p> <p>A. paid-in equity capital is not less than US\$200,000 for domestic market enterprises; or</p> <p>B. paid-in equity capital is not less than US\$100,000 for domestic market enterprises employing at least 50 direct employees; or</p> <p>C. paid-in equity capital is not less than US\$100,000 for domestic market enterprises involving advanced technology as determined by the DOST; or</p> <p>D. the service provider exports 60 percent or more of its output.</p> <p>Otherwise, only up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Natural persons are allowed in the following cases:</p> <p>A. paid-in equity capital is not less than US\$200,000 for domestic market enterprises; or</p> <p>B. paid-in equity capital is not less than US\$100,000 for domestic market enterprises employing at least 50 direct employees; or</p>	<p>3) None, except as indicated in the horizontal section.</p> <p>4) None</p>	
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		<p>C. paid-in equity capital is not less than US\$100,000 for domestic market enterprises involving advanced technology as determined by the DOST; or</p> <p>D. he exports 60 percent or more of his output.</p> <p>Limitations listed in the horizontal section shall also apply.</p>		
4. DISTRIBUTION SERVICES <sup>17</sup>				
A. Commission Agents' Services except rice and corn industry (621)	SS	<p>1) Business must be done through an entity registered under Philippine laws.</p> <p>2) None</p> <p>3) 100 percent foreign equity participation is allowed in the following cases:</p> <p>A. paid-in equity capital is not less than US\$200,000 for domestic market enterprises; or</p> <p>B. paid-in equity capital is not less than US\$100,000 for domestic market enterprises employing at least 50 direct employees; or</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	

17 The Philippines shall undertake a review of the laws and/or regulations on retailing services within 2 years from the date of entry into force of this Agreement. The progress of the review will be shared by both sides.

		<p>C. paid-in equity is not less than US\$100,000 for domestic market enterprises involving advanced technology as determined by the DOST; or,</p> <p>D. the agent exports 60 percent or more of its output.</p> <p>Otherwise, only up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>4) None</p>	
		<p>4)</p> <p>A. A natural person is allowed provided that the total investment is not less than US\$200,000 for domestic market enterprises; or</p> <p>B. A natural person is allowed provided that the total investment is not less than US\$100,000 for domestic market enterprises employing at least 50 direct employees; or</p> <p>C. A natural person is allowed provided that the total investment is not less than US\$100,000 for domestic market enterprises involving advanced technology as determined by the DOST; or,</p> <p>D. A natural person is allowed provided he exports 60 percent or more of his output.</p>		

		Limitations listed in the horizontal section shall also apply.		
5. EDUCATIONAL SERVICES				
<p>A. Primary Education (921)</p> <p>B. Secondary Education (922)</p> <p>D. Adult Education Alternative Learning System (9240**)</p> <p>Basic Education encompasses early childhood, elementary and high school education as well as alternative learning systems for out-of-school youth and adult learners and includes education for those with special need.</p>	SS	<p>1) Commercial presence is required.</p> <p>2) None</p> <p>3) A. Other than those established by religious groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations of which at least 60 percent of capital is owned by citizens of the Philippines. The Congress, may however, require increased Filipino equity participation in all education institutions.</p> <p>B. Control and administration of educational institutions shall be vested in citizens of the Philippines.</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	



		<p>C. No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school. This shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless otherwise provided by law, for other foreign temporary residents.</p> <p>D. Any private school to be established must incorporate as a non-stock educational corporation in accordance with the provision of the Corporation Code of the Philippines (BP No. 68); and provided, further, that the requirement of incorporation may be waived by the Department of Education (DepEd) in the case of a family-administered school offering a pre-elementary school education programs.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Employment of foreign professionals:</p> <p style="padding-left: 40px;">As indicated in the horizontal section for Professional Services.</p>	<p>4) Employment of foreign professionals:</p> <p style="padding-left: 40px;">As indicated in the horizontal section for Professional Services.</p>	
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		<p>A special permit may also be issued by the National Board for Teachers to a person who has excelled and gained international recognition and is a widely acknowledged expert in his or her respective field of specialization.</p> <p>Limitations listed in the horizontal section shall also apply.</p>		
C. Higher education services (923)	SS	<p>1) Transnational education through distance education</p> <p>A. For academic programs offered directly by a Foreign Higher Education provider (FHEP) with no local representative (e.g. via internet)</p> <p>Evidence required:</p> <p>a. Government recognition; and</p> <p>b. Certificate of accreditation (from a recognized accrediting body)</p> <p>B. For academic programs offered by an FHEP with a local representative/partner (e.g. via internet)</p> <p>Evidence required:</p> <p>a. Government recognition;</p>	1) None	

		<p>b. Certificate of accreditation (from a recognized accrediting body); and</p> <p>c. SEC registration</p> <p>2) None</p> <p>3) A. Establishment of Educational Institutions: Conventional programs offered by FHEP through a local branch or satellite campus</p> <p>a. Other than those established by religious groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations of which at least 60 percent of capital is owned by citizens of the Philippines. The Congress, may however, require increased Filipino equity participation in all education institutions.</p> <p>b. Control and administration of educational institutions shall be vested in citizens of the Philippines.</p>	<p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	
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		<p>c. No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school. This shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless otherwise provided by law, for other foreign temporary residents.</p> <p>B. Twinning program done through scholarship grants, faculty-student exchange, collaborative exchange, short and long-term training, curriculum development and enhancement, library and laboratory enrichment and cultural exchange.</p> <p>a. Only recognized and accredited HEIs with at least Level II accreditation status shall be authorized by the Commission on Higher Education (CHED) to conduct and initiate linkages and twinning programs with foreign HEIs.</p>		
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		<p>b. Foreign HEIs must be recognized by their respective governments and accredited by their accrediting bodies as quality institutions with the highest level of recognition from their respective governments duly authenticated by their respective embassies and consulates. Furthermore, their standards must be at par with the Philippine HEIs in terms of government recognition, faculty strength and curriculum.</p> <p>c. The twinning agreement shall be submitted to the CHED for evaluation and approval.</p> <p>d. The twinning arrangement between the Philippine HEIs and the Foreign HEIs shall be subject to periodic review, evaluation and validation as part of the quality assurance mechanism to ensure adherence to the international standards of excellence on international programs.</p>		
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		<p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Employment of foreign professionals:</p> <p style="padding-left: 40px;">As indicated in the horizontal section for Professional Services.</p> <p>A special permit may also be issued by the National Board for Teachers to a person who has excelled and gained international recognition and is a widely acknowledged expert in his or her respective field of specialization.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>4) Employment of foreign professionals:</p> <p style="padding-left: 40px;">As indicated in the horizontal section for Professional Services.</p>	
<p>Post-secondary technical and vocational education services (9231) (Technical Vocational Education and Training (TVET))</p>		<p>1) Unbound</p> <p>2) None</p> <p>3) A. Other than those established by religious groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations of which at least 60 percent of capital is owned by citizens of the Philippines. The Congress, may however, require increased Filipino equity participation in all education institutions.</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	

	<p>B. Control and administration of educational institutions shall be vested in citizens of the Philippines.</p> <p>C. No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school. This shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless otherwise provided by law, for other foreign temporary residents.</p> <p>D. TVET courses offered by institutions should be registered under the Unified TVET Program Registration and Accreditation System (UTPRAS) of the Technical Education and Skills Development Authority (TESDA).</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Trainers should secure special permit in accordance with the Philippine Teachers Professionalization Act (RA 9293) and Guidelines for the Registration of Foreign Professionals Allowed by Laws to Practice the Regulated Profession in the Philippines (PRC Resolution No. 90-547).</p>	<p>4) None</p>	
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		Limitations listed in the horizontal section shall also apply.		
E. Other education services (929)	SS	1) None 2) None 3) <ul style="list-style-type: none"> <li>A. Other than those established by religious groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations of which at least 60 percent of capital is owned by citizens of the Philippines. The Congress, may however, require increased Filipino equity participation in all education institutions.</li> <li>B. Control and administration of educational institutions shall be vested in citizens of the Philippines.</li> <li>C. No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school. This shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless otherwise provided by law, for other foreign temporary residents.</li> </ul>	1) None 2) None 3) None, except as indicated in the horizontal section.	



		<p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Employment of foreign professionals:</p> <p>As indicated in the horizontal section for Professional Services.</p> <p>A special permit may also be issued by the National Board for Teachers to a person who has excelled and gained international recognition and is a widely acknowledged expert in his or her respective field of specialization.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>4) Employment of foreign professionals:</p> <p>As indicated in the horizontal section for Professional Services.</p>	
6. ENVIRONMENTAL SERVICES				
A. Sewerage services (9401)	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) For participation in public and/or private sewerage services, up to 40 percent foreign equity participation is allowed.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	

		<p>For participation in public and/or private sewerage services in Metro Manila, it is subject to negotiations and agreement with concessionaires (i.e., Manila Water and Maynilad) and approval/regulation by the Metropolitan Waterworks and Sewerage System (MWSS). If the parties agreed (MWSS &amp; the two concessionaires), amendment of the Concession Agreement shall be made.</p> <p>For areas outside Metro Manila, entry into public and/or private sewerage services is subject to the following:</p> <p>A. Where Local Water Districts (LWDs) exist, participation or entry should be in the form of partnership or corporation which may then enter into a BOT Scheme or other similar schemes or other forms of contractual agreements/arrangements with the LWDs.</p> <p>B. In the absence of existing LWDs, entry should still be in the form of partnership or corporation; however, the contractual agreements/arrangements that may be entered into will be with local government unit/s concerned.</p> <p>Limitations listed in the horizontal section shall also apply.</p>		
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		<p>4) Employment of foreign professionals:</p> <p>As indicated in the horizontal section for Professional Services.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>4) Employment of foreign professionals:</p> <p>As indicated in the horizontal section for Professional Services.</p>	
7. FINANCIAL SERVICES				
All subsectors <sup>18</sup>		<p>3) The appropriate regulatory authority in the Philippines shall determine whether public interest and economic conditions justify authorization for the establishment of commercial presence or expansion of existing operations in banking and other financial services in the Philippines. For foreign financial institutions with internationally recognized standing, such determination shall include a demonstrated capacity to contribute to the attainment of Philippine development objectives particularly in the promotion of trade, investments and appropriate technology transfer; and the country of incorporation has strategic trade and investment relations with the Philippines.</p>		

18 For the purposes of this Schedule, specific commitments with respect to financial services which are included in the WTO Document GATS/SC/70/Suppl.3 are incorporated into and made a part of this Schedule. The Philippines undertakes its specific commitments with respect to Financial Services in accordance with Chapter 7, Annex 6 and specific commitments in the WTO Documents GATS/SC/70/Suppl.3. In the event of conflict between the commitments in Part 1B of Annex 7 and in the WTO Documents GATS/SC/70/Suppl.3, the former commitments shall prevail to the extent of the conflict.

		<p>In banking, the Monetary Board shall ensure that at all times 70 percent of the resources or assets of the Philippine banking system is held by domestic banks which are at least majority-owned by Filipinos.</p> <p>3), 4) Limitations listed in the horizontal section shall also apply.</p>		
B. Banking and other financial services (excluding insurance)				
Commercial Banking	SS	<p>1) Commercial presence is required.</p> <p>2) None</p> <p>3) Foreign capital participation in commercial banks:</p> <p>A. Acquisition of up to 60 percent of the voting stock of an existing bank; and</p> <p>B. Investing in up to 60 percent of the voting stock of a new banking subsidiary incorporated under the laws of the Philippines</p> <p>Non-Filipino citizens may become members of the Board of Directors of a bank to the extent of the foreign participation in the equity of said bank.</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	

		<p>Grant of MFN treatment to Japan as regards the establishment of direct branches of foreign banks in the Philippines, subject to reciprocal market access treatment, provided that this is always in accordance with existing laws.</p>		
		<p>4) Limitations listed in the horizontal section for financial services shall apply.</p>	<p>4) A non-Filipino citizen employed as officer or assigned to do technical functions shall have two Filipino understudies.</p>	
8. HEALTH AND SOCIAL SERVICES				
A. Hospital Services (9311)	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) Up to 100 percent foreign equity participation is allowed, provided:</p> <p>A. paid-in equity capital is at least US\$200,000; or</p> <p>B. paid-in equity must not be less than US\$100,000 for domestic market enterprises employing at least 50 direct employees.</p> <p>Otherwise, only up to 40 percent foreign equity participation is allowed</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Employment of foreign professionals:</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p> <p>4) None</p>	

		As indicated in the horizontal section for Professional Services.  Limitations listed in the horizontal section shall also apply.		
9. TOURISM AND TRAVEL RELATED SERVICES				
A. Hotels and restaurants				
a. Hotels, resorts, pension houses, tourist inns apartelles (64110)	SS	1) None 2) None 3) None, except as indicated in the horizontal section. 4) None, except as indicated in the horizontal commitment.	1) None 2) None 3) None, except as indicated in the horizontal section. 4) None	
b. Restaurants (6421-64310)		1) Unbound* 2) None 3) Foreign nationals may wholly operate a restaurant provided that the minimum paid in capital of US\$2.5 million is complied and maintained; provided further that pre qualification requirements are complied in accordance with appropriate government agencies.  Foreign nationals may also establish branches provided that the minimum paid in capital of US\$830,000.00 per restaurant is complied and maintained.  Limitations listed in the horizontal section shall also apply.	1) Unbound* 2) None 3), 4) Foreign nationals may wholly operate a restaurant provided that the minimum paid in capital of US\$2.5 million is complied and maintained.  Prior notification for cessation of operation.  Foreign nationals may also establish additional branches provided that the minimum paid in capital of US\$830,000.00 per restaurant is complied and maintained.  Prior notification for opening and closing of branches/stores.	

			<p>Provided further that 30 percent local inventory requirement, public offering requirement under certain conditions and prohibition to engage in certain restaurant activities are complied.</p> <p>Every registered foreign restaurant is to submit to the Department of Trade and Industry (DTI) the following reports:</p> <ul style="list-style-type: none"> <li>A. A general information sheet in the prescribed form showing, among others, the accredited stores of the enterprise and the status of operations of the entity;</li> <li>B. An audited financial statement and income tax return</li> <li>C. Certification by a responsible officer of the company showing the maintenance of the required minimum capital unless the foreign investor has notified the SEC and the DTI of its intention to repatriate its capital and cease operations in the Philippines.</li> </ul> <p>Qualified foreign restaurants are not allowed to engage in certain retailing activities outside their accredited branches through the use of mobile or rolling stores or carts, the use of sales representatives, door-to-door selling, and sari-sari stores and such other similar retailing activities.</p>	
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		4) Natural persons as service supplier are allowed subject to the same requirements in mode 3 and as provided in the horizontal section.	Limitations listed in the horizontal section shall also apply	
B. Travel agencies and tour operators services (74710)	SS	1) None 2) None 3) None, except as indicated in the horizontal section. 4) None, except as indicated in the horizontal section.	1) None 2) None 3) None, except as indicated in the horizontal section. 4) None	
C. Tourist Guides Services (7472)	SS	1) Unbound* 2) None 3) Tour guides should be employed by a tour operator or a travel agency.  Limitations listed in the horizontal section shall also apply. 4) Subject to reciprocity and limitations listed in the horizontal section.	1) Unbound* 2) None 3) None, except as indicated in the horizontal section. 4) None	
11. TRANSPORT SERVICES				
A. Maritime Transport Services  a.b. International Maritime Transport (passenger and freight), except cabotage transport and government-owned cargoes (7211, 7212)	SS	1) None 2) None 3) Up to 40 percent foreign equity is allowed.	1) None 2) None 3) None, except as indicated in the horizontal section.	The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions:



		<p>Limitations listed in the horizontal section shall also apply.</p> <p>4) For Philippine-registered ship, under circumstances to be determined by the MARINA, aliens may be employed as supernumeraries only for a period of 6 months.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>4) None</p>	<ol style="list-style-type: none"> <li>1. Pilotage</li> <li>2. Towing and tug assistance</li> <li>3. Provisioning, fuelling and watering</li> <li>4. Garbage collecting and ballast waste disposal</li> <li>5. Port Captain's services</li> <li>6. Navigation aids</li> <li>7. Shore-based operational services essential to ship operations, including communications, water and electrical supplies</li> <li>8. Emergency repair services</li> <li>9. Anchorage, berths and berthing services</li> </ol>
d. Maintenance and repair of vessel (8868**)	SS	<ol style="list-style-type: none"> <li>1) Unbound*</li> <li>2) Any repairs, conversion or dry-docking of Philippine-owned or registered vessels are required to be done at domestic ship repair yards registered with the MARINA, except in cases of emergency.</li> <li>3) None, except as indicated in the horizontal section.</li> <li>4) None, except as indicated in the horizontal section.</li> </ol>	<ol style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) None, except as indicated in the horizontal section.</li> <li>4) None</li> </ol>	

Maritime agency services		<ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> <li>3) None, except as indicated in the horizontal section.</li> <li>4) None, except as indicated in the horizontal section.</li> </ul>	<ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> <li>3) None, except as indicated in the horizontal section.</li> <li>4) None</li> </ul>	
e. Pushing and towing services (72140)		<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) Up to 40 percent foreign equity participation is allowed.  Limitations listed in the horizontal section shall also apply.</li> <li>4) None, except as indicated in the horizontal section.</li> </ul>	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) None, except as indicated in the horizontal section.</li> <li>4) None</li> </ul>	
f. Supporting services for maritime transport				
Port and waterway operation services (74510)	SS	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) Up to 40 percent foreign equity participation is allowed.  Limitations listed in the horizontal section shall also apply.</li> <li>4) None, except as indicated in the horizontal section.</li> </ul>	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) None, except as indicated in the horizontal section.</li> <li>4) None</li> </ul>	
Other supporting services for water transport (74590)	SS	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> </ul>	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> </ul>	

		<p>3) Up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) None, except as indicated in the horizontal section.</p>	<p>3) None, except as indicated in the horizontal section.</p> <p>4) None</p>	
C. Air Transport Services				
d. Maintenance and repair of aircraft (8868**)	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) Up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) None, except as indicated in the horizontal section.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p> <p>4) None</p>	
Selling and marketing services (GATS Annex on Air Transportation) <sup>19</sup>				
Off-line Carriers	SS	<p>1) None except authorization from Civil Aeronautics Board (CAB) is required.</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	

<sup>19</sup> Selling and Marketing services (in the case of the Philippines) are categorized and defined following existing Philippine laws and rules and regulations of its aeronautical authorities as Off-line Carriers, General Sales Agent (GSA) and Cargo Sales Agent (CSA).

		4) None, except as indicated in the horizontal section.	4) None	
General Sales Agent (GSA) Cargo sales Agent (CSA)	SS	<p>1) None except authorization from CAB is required.</p> <p>2) None</p> <p>3) For individuals, only Filipino citizens are allowed.</p> <p>For partnership, each member must be a Filipino citizen.</p> <p>For corporation or association created under the laws of the Philippines, 60 percent of the voting interest shall be owned or controlled by Filipino citizens.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Individual service suppliers must be Filipino citizens.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>1) None</p> <p>2) None</p> <p>3) The directing head, and two-thirds or more of the Board of Directors and other managing officers shall be Filipino citizens.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Individual service suppliers must be Filipino citizens.</p>	
E. Rail Transport Services a. Passenger transportation (7111) b. Freight transportation (7112) e. Supporting services (743) Railroad, street railway, traction railway	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) Up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) None, except as indicated in the horizontal section.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p> <p>4) None</p>	

<p>F. Road Transport Services</p> <p>a. Passenger transportation (7121+7122)</p> <p>b. Freight transportation (7123)</p> <p>c. Rental of commercial vehicles with operator (7124)</p>	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) Up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) None, except as indicated in the horizontal section.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p> <p>4) None</p>	
<p>G. Pipeline Transport (713)</p>	SS	<p>1) Unbound*</p> <p>2) None</p> <p>3) Up to 40 percent foreign equity participation is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Employment of foreign professionals:</p> <p>As indicated in the horizontal section for Professional Services.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p> <p>4) Employment of foreign professionals:</p> <p>As indicated in the horizontal section for Professional Services.</p>	
<p>H. Services auxiliary to all modes of transport</p>				
<p>a. Maritime Cargo Handling Services (74110**, 74190**)</p>		<p>1) Unbound*</p> <p>2) None</p> <p>3) Up to 40 percent foreign equity participation is allowed.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	

		<p>Limitations listed in the horizontal section shall also apply.</p> <p>4) None, except as indicated in the horizontal section.</p>	<p>4) None</p>	
<p>b. Storage and warehouse services except rice and corn (742)</p>	SS	<p>1) None</p> <p>2) None</p> <p>3) Up to 40 percent foreign equity is allowed.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) None, except as indicated in the horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p> <p>4) None</p>	
<p>c. Freight transport agency services (74800**)</p>				
<p>International freight forwarding by sea</p>	SS	<p>1) None</p> <p>2) None</p> <p>3) A. Up to 100 percent foreign equity participation is allowed, provided that paid-in equity capital is not less than \$200,000, otherwise up to 40 percent foreign equity participation is allowed.</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p>	

		<p>B. Secondary permits, licenses or registration/accreditation must be secured from agencies concerned prior to operation of a business enterprise.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) None, except as indicated in the horizontal section.</p>	<p>4) None</p>	
Domestic freight forwarding by sea	SS	<p>1) None</p> <p>2) None</p> <p>3) A. Up to 40 percent foreign equity participation is allowed.</p> <p>B. Secondary permits, licenses or registration/accreditation must be secured from agencies concerned prior to operation of a business enterprise.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) None, except as indicated in the horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p> <p>4) None</p>	
<p>Notes to the Specific Commitments in the Sectors of Transport Services:</p> <p>Maritime Transport Services</p> <p>1. &lt;&lt;Maritime Agency Services&gt;&gt; means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:</p>				

- (a) marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;
- (b) acting on behalf of the companies organizing the call of the ship or taking over cargoes when required.

- 2. << Pushing and towing services>> on the high seas and on coastal waters shall mean the business of pulling a vessel with the help of a watercraft/vessel, which is equipped with powerful engines and deck mounted winches to perform towing and pushing services. This is a service provided to ships, which are difficult to maneuver to berth or during bad weather conditions to assure their safety. These services are generally provided by vessels, which do not themselves carry freight or passengers.
- 3. <<Maritime cargo handling services>> means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organized independently of the stevedoring or terminal operator companies. The activities covered include the organization and supervision of:
  - the loading/discharging of cargo to/from ship;
  - the lashing/unlashing of cargo;
  - the reception/delivery and safekeeping of cargoes before shipment or after discharge
- 4. <<Port and waterway operation services>> shall mean the operation services of Ferry Terminals under the Road Roll-On/Roll-Off Terminal System (RRTS) of the Philippines' Strong Republic Nautical Highway (SRNH). The Guidelines on the Development, Construction, Management and Operation of Ferry Terminals under the Road Roll-on Roll-Off Terminal System (RRTS) is contained in Philippine Ports Authority (PPA) Administrative Order No. 03-2004.

#### Air Transport Services

- 5. <<Off-line Carriers>> any foreign air carrier not certificated by the CAB, but who maintains office or who has designated or appointed agents or employees in the Philippines, who sells or offers for sale any air transportation in behalf of said foreign air carrier and/or others, or negotiate for, or holds itself out by solicitation, advertisement, or otherwise sells, provides, furnishes, contracts, or arranges for such transportation.
- 6. <<General Sales Agent (GSA)>> means a person not a bonafide employee of an air carrier, who pursuant to an authority from an airline, by itself or through an agent, sells or offers for sale any air transportation, or negotiates for, or holds himself out by solicitation, advertisement or otherwise as one who sells, provides, furnishes, contracts, or arranges for such air transportation.
- 7. <<Cargo Sales Agent (CSA)>> means any person, who does not directly operate an aircraft for the purpose of engaging in air transportation on air commerce and not bonafide employee of an air carrier, who as principal or agent, sells or offers for sale any air transportation of cargo, or negotiates for, or holds himself out of solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such air transportation of cargo.

#### Freight Forwarding Services

- 8. Notwithstanding the fact that road, rail, inland waterways and related auxiliary services are not fully covered in this schedule of specific commitments, a multimodal transport operator shall have the ability to rent or lease trucks, railway carriages or barges, and related equipment, for the purposes of inland forwarding of cargoes, or have access to, and use of, these forms of multimodal activities on reasonable and non-discriminatory terms and conditions for the purposes of carrying out multimodal transport operations.



(Note 1) <<Multimodal transport operator>> means any person who on his own or behalf or through another person acting on his behalf concludes a multimodal transport contract and who acts as a principal, not as an agent or on behalf of the consignor or of the carriers participating in the multimodal transport operations, and who assumes responsibility for the performance of the contract.

(Note 2) <<Reasonable and non-discriminatory terms and conditions>> means, for the purposes of multimodal transport operations, the ability of the multimodal transport operator to arrange for the conveyance of its merchandise on a timely basis, including priority over other merchandise which has entered the port at a later date.

12. OTHERS

ENERGY SERVICES

Services Related to Power Generation

Operation of Power Plants (as provided under the BOT scheme)	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) None, except electric cooperative operation, is limited to Filipinos.  Limitations listed in the horizontal section shall also apply.</li> <li>4) Unbound</li> </ul>	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) None, except as indicated in the horizontal section.</li> <li>4) Unbound</li> </ul>	
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Services Related to the Supply of Energy

Oil Refinery	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) Initial Public Offering (IPO) for 10 percent of common stock on commencement of refinery operation.  Limitations listed in the horizontal section shall also apply.</li> <li>4) Unbound</li> </ul>	<ul style="list-style-type: none"> <li>1) Unbound*</li> <li>2) None</li> <li>3) None, except as indicated in the horizontal section.</li> <li>4) Unbound</li> </ul>	
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Oil Terminals/Depots	<p>1) Unbound*</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p> <p>4) Unbound</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None, except as indicated in the horizontal section.</p> <p>4) Unbound</p>	
Petroleum Product Retail Outlets	<p>1) Unbound*</p> <p>2) None</p> <p>3) Foreign nationals may wholly operate a petroleum product retail outlet provided that the minimum paid in capital of US\$2.5 million is complied; provided further that pre-qualification requirements are complied and maintained in accordance with appropriate government agencies.</p> <p>Foreign nationals may also establish branches provided that the minimum paid in capital of US\$830,000.00 per retail outlet is complied and maintained.</p> <p>Limitations listed in the horizontal section shall also apply.</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) Foreign nationals may wholly operate a petroleum product retail outlet provided that the minimum paid in capital of US\$2.5 million is complied and maintained.</p> <p>Prior notification for cessation of operation.</p> <p>Foreign nationals may also establish additional branches provided that the minimum paid in capital of US\$830,000.00 per retail outlet is complied and maintained</p> <p>Prior notification for opening and closing of outlets.</p> <p>Provided further that 30 percent local inventory requirement, public offering requirement under certain conditions and prohibition to engage in certain retailing activities are complied.</p> <p>Every registered foreign retail outlet is to submit to the DTI the following reports:</p>	

		<p>4) Unbound</p>	<p>a. A general information sheet in the prescribed form showing, among others, the accredited outlets of the enterprise and the status of operations of the entity;</p> <p>b. An audited financial statement and income tax return</p> <p>c. Certification by a responsible officer of the company showing the maintenance of the required minimum capital unless the foreign investor has notified the SEC and the DTI of its intention to repatriate its capital and cease operations in the Philippines.</p> <p>Qualified foreign retail outlets are not allowed to engage in certain retailing activities outside their accredited branches through the use of mobile or rolling stores or carts, the use of sales representatives, door-to-door selling, and sari-sari stores and such other similar retailing activities.</p> <p>Limitations listed in the horizontal section shall also apply.</p> <p>4) Unbound</p>	
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PART 2  
List of Most-Favored-Nation Treatment Exemptions in relation to Article 76

2A: List of Japan

Sector or subsector	Description of measure indicating its inconsistency with Article 76	Intended duration	Conditions creating the need for the exemption <sup>1</sup>
Maritime freight forwarding services	An operation permit or governmental registration for maritime freight forwarding services (including services related to multimodal transport services <sup>2</sup> ) will not be granted when fair business activities are not ensured.	Termination of this measure shall be considered depending upon the outcome of future negotiations for trade liberalization.	Need to ensure Japanese persons have satisfactory access to the supply of maritime freight forwarding services (including services related to multimodal transport services) in the Philippines.
International shipping services (including passenger transportation and freight transportation services)	Restriction or prohibition of a) entry in Japanese ports and b) loading or unloading of cargoes in Japanese ports for a designated period may be imposed as a countermeasure on operators of vessels who belong to the country in which interests of Japanese operators continue to be substantially damaged, in spite of prior notification of taking such measure, under unfavorable treatment imposed on them by that country or by local authorities or similar entities of that country.	Termination of this measure shall be considered depending upon the outcome of future negotiations for trade liberalization.	Need to ensure favorable treatment for Japanese vessels operators in the Philippines.
Energy Services	With respect to the supply of services in the Electricity Utility Industry, Gas Utility Industry and Nuclear Energy Industry, excluding services supplied under subparagraph (t) (iii) of Article 71, preferential treatment may be accorded to the service suppliers of a non-Party.	Indefinite	Need to secure an efficient and stable supply of energy.

1 Description in this column shall be construed as information provided for reference purposes that does not form a part of commitments.

2 "Multimodal transport services" means freight transport services combining international maritime transport and road/railroad transport, provided on 'door to door' basis by a multimodal transport operator (as defined in Note to the Specific Commitments in the Sectors of Maritime Transport Services and Maritime Auxiliary Transport Services in the Schedule of Specific Commitments of Japan).

<p>Fisheries related services</p>	<p>With respect to the supply of services in fisheries in the territorial sea, internal waters, exclusive economic zone and continental shelf of Japan, including the following fisheries related services, preferential treatment may be accorded to the service suppliers of a non-Party:</p> <ul style="list-style-type: none"> <li>(a) investigation of aquatic resources without taking such resources;</li> <li>(b) luring of aquatic resources;</li> <li>(c) preservation and processing of fish catches;</li> <li>(d) transportation of fish catches and fish products; and</li> <li>(e) provision of supplies to other vessels used for fisheries.</li> </ul>	<p>Indefinite</p>	<p>Need to ensure conservation and management of fishery resources.</p>
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[外務省1]

2B: List of the Philippines

Sector or subsector	Description of measure indicating its inconsistency with MFN Provisions	Intended Duration	Conditions creating the need for the exemption <sup>1</sup>
<p>ALL SECTORS</p> <p>Entry and temporary stay of natural persons supplying services</p>	<p>A special visa category is provided for traders and investors of countries with which the Philippines has concluded treaties on entry rights for traders and investors.</p> <p>Under this special category, the labor market test is waived and simplified entry procedures are provided.</p>	<p>Expiry date or termination of bilateral treaties on entry rights for traders and investors</p>	<p>To facilitate entry into the Philippines, on the basis of reciprocity, of foreign nationals for purposes of trade, investment and related activities.</p>
<p>Financial Services</p>			
<p>Commercial banking</p>	<p>Authorization for foreign financial service suppliers to establish commercial presence or expand existing operations in commercial banking in the Philippines shall be subject to a reciprocity test.</p>	<p>Indefinite</p>	<p>To ensure Philippine financial service suppliers are accorded full market access and national treatment in the foreign financial service market.</p>
<p>Financing Companies</p>	<p>Authorization for foreign financial service suppliers to establish commercial presence or expand existing operations in financing companies shall be subject to a reciprocity test.</p>	<p>Indefinite</p>	<p>To ensure Philippine financial service suppliers are accorded full market access and national treatment in the foreign financial service market.</p>
<p>Investment Houses</p>	<p>In approving foreign equity applications in Investment Houses, the appropriate regulatory authority shall approve such applications only if the same or similar rights are enjoyed by Philippine nationals in the applicant's country.</p>	<p>Indefinite</p>	<p>To ensure Philippine financial service suppliers are accorded full market access and national treatment in the foreign financial service market.</p>

1 Descriptions in this column shall be construed as information provided for reference purposes only and do not form part of the Philippines' commitments.

Maritime Transport Services			
Liner cargo trade	<p>Executive Order 769 provides for a preferential cargo sharing arrangement with countries which are parties to the UNCTAD Liner Code</p> <p>Under the above-mentioned arrangement, a Party to the UNCTAD Liner Code effectively implementing the Code is assured of at least 40 percent share of its bilateral export and import liner cargo trade with the Philippines.</p>	Indefinite	Ensure effective participation of Philippine ocean-going fleet in Philippine liner cargo trade

Annex 7 referred to in Chapter 8  
Reservations for Existing and Future Measures

Part 1  
Reservations for Existing Measures

1. The Schedule of a Party sets out, pursuant to paragraph 1 of Article 94, the reservations taken by that Party with respect to existing measures that do not conform with obligations imposed by:
  - (a) Article 89 (National Treatment);
  - (b) Article 90 (Most-Favored-Nation Treatment); or
  - (c) Article 93 (Prohibition of Performance Requirements)
2. Each reservation sets out the following elements:
  - (a) "Sector" refers to the general sector in which a reservation is taken;
  - (b) "Sub-Sector" refers to the specific sector in which a reservation is taken;
  - (c) "Industry Classification" refers, where applicable, to the activity covered by the reservation according to domestic industry classification codes;
  - (d) "Type of Reservation" specifies the obligation referred to in paragraph 1 above for which a reservation is taken;
  - (e) "Level of Government" indicates the level of government maintaining the measure for which a reservation is taken;
  - (f) "Measures" identifies the existing laws, regulations or other measures for which the reservation is taken.
  - (g) "Description" sets out, with regard to the obligations referred to in paragraph 1 above, the non-conforming aspects of the existing measures for which the reservation is taken; and
  - (h) "Phase-Out" set out commitments if any, for liberalization after the date of entry into force of this Agreement.



3. In the interpretation of a reservation, all elements of the reservation shall be considered. A reservation shall be interpreted in the light of the relevant provisions of Chapter 8 against which the reservation is taken, and:

- (a) to the extent that the Phase-Out element provides for the phasing out of non-conforming aspects of measures, the Phase-Out element shall prevail over all other elements; and
- (b) except as provided for in subparagraph (a) above, the Measures element shall prevail over all other elements.

4. For the purposes of this Part, the term "JSIC" means Japan Standard Industrial Classification as set out in the Statistics Bureau, Ministry of Internal Affairs and Communications, revised on March 7, 2002.

1A: Schedule of Japan

1 Sector: Agriculture, Forestry and Fisheries  
(Plant Breeder's Right)

Sub-Sector:

Industry Classification: JSIC 0119 Miscellaneous crop farming  
JSIC 0243 Tree seed gathering and forest nursery services  
JSIC 0413 Seaweed aquaculture  
JSIC 0415 Seed aquaculture

Type of Reservation: National Treatment (Article 89)  
Most-Favored-Nation Treatment (Article 90)

Level of Government: Central Government

Measures: Seeds and Seedlings Law (Law No. 83 of 1998), Article 10

Description: A foreigner who has neither a domicile nor residence (nor establishment, in the case of a legal person) in Japan cannot enjoy a plant breeder's right or related rights except in any of the following cases:

- (a) where the state of which the person is a national or the state in which the person has a domicile or residence (or its establishment, in the case of a legal person) is a contracting party to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as Revised at Geneva on November 10, 1972, on October 23, 1978, and on March 19, 1991;

- (b) where the state of which the person is a national or the state in which the person has a domicile or residence (or its establishment, in the case of a legal person) is a contracting party to the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as Revised at Geneva on November 10, 1972 and on October 23, 1978 (hereinafter referred to in this Annex as "the 1978 UPOV Convention"), or a state in relation with which Japan shall apply the 1978 UPOV Convention in accordance with paragraph (2) of Article 34 of the 1978 UPOV Convention, and further provides the protection for plant genus and species to which the person's applied variety belongs; or
- (c) where the state of which the person is a national provides Japanese nationals with the protection of varieties under the same condition as its own nationals (including a state which provides such protection for Japanese nationals under the condition that Japan allows enjoyment of the plant breeder's right or related rights for the nationals of that state), and further provides the protection for plant genus and species to which the person's applied variety belongs.

Phase-Out:           None

2	Sector:	Finance	
	Sub-Sector:	Banking	
	Industry Classification:	JSIC 612	Banks, except Central Bank
		JSIC 621	Financial institutions for small businesses
	Type of Reservation:	National Treatment (Article 89)	
	Level of Government:	Central Government	
	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.	
	Phase-Out:	None	

3 Sector: Heat Supply

Sub-Sector:

Industry Classification: JSIC 3511 Heat Supply

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

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

Cabinet Order of 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 investment in the heat supply industry in Japan.

Phase-Out: None

4 Sector: Information and Communications

Sub-Sector: Telecommunications

Industry Classification: JSIC 3721 Regional telecommunications, except wired broadcast telephones

JSIC 3741 Services incidental to telecommunications

Type of Reservation: National Treatment (Article 89)

Prohibition of Performance Requirements (Article 93)

Level of Government: Central Government

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

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

- (a) a natural person who does not have Japanese nationality;
- (b) a foreign government or its representative; and
- (c) a foreign legal person or a foreign entity.

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

Phase-Out :        None

5 Sector: Information and Communications

Sub-Sector: Telecommunications and Internet Based Services

Industry Classification: JSIC 3721\* Regional telecommunications, except wired broadcast telephones

JSIC 3722\* Long-distance telecommunications

JSIC 3729\* Miscellaneous fixed telecommunications

JSIC 3731\* Mobile telecommunications

JSIC 4011\* Internet based services

(An asterisk (\*) on the JSIC number indicates that the activities covered by the reservation under such number are limited to the activities which are subject to the registration obligation under Article 9 of the Telecommunications Business Law (Law No. 86 of 1984).)

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

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 investment in telecommunications business and internet based services in Japan.



Phase-Out :        None

6 Sector: Manufacturing

Sub-Sector: Drugs and Medicines Manufacturing

Industry Classification: JSIC 1763 Biological preparations

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

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 investment in biological preparations manufacturing industry in Japan. For greater certainty, "biological preparations manufacturing industry" deals with economic activities in establishment which mainly produces vaccine, serum, toxoid, antitoxin and some preparations similar to the aforementioned products, or blood products.

Phase-Out: None

7 Sector: Manufacturing

Sub-Sector: Leather and Leather Products Manufacturing

Industry Classification: JSIC 1257 Fur apparel and apparel accessories

JSIC 1259\* Textile apparel and accessories, n.e.c.

JSIC 1794\*\* Gelatine and adhesives

JSIC 202 Rubber and plastic footwear and its findings

JSIC 21 Manufacture of leather tanning, leather products and fur skins

JSIC 3234\* Sporting and athletic goods

(An asterisk (\*) on the JSIC number indicates that the activities covered by the reservation under such number are limited to the activities related to leather and leather products manufacturing.)

(Two asterisks (\*\*) on the JSIC number indicates that the activities covered by the reservation under such number are limited to the activities related to animal glue (nikawa) and gelatine manufacturing.)

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

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 investment in leather and leather products manufacturing industry in Japan.

Phase-Out: None

8 Sector: Matters Related to the Nationality of a Ship

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 89)  
Prohibition of Performance Requirements (Article 93)

Level of Government: Central Government

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 law, of which all representatives and not less than two-thirds of executives administering the affairs are Japanese nationals.

Phase-Out: None

9 Sector: Mining

Sub-Sector:

Industry Classification: JSIC 05 Mining

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

Measures: Mining Law (Law No. 289 of 1950), Articles 17 and 87

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

Phase-Out: None

10 Sector: Oil Industry

Sub-Sector:

Industry Classification:	JSIC 053	Crude petroleum and natural gas production
	JSIC 181	Petroleum refining
	JSIC 182	Lubricating oils and greases (not made in petroleum refineries)
	JSIC 1841*	Paving materials
	JSIC 1899*	Miscellaneous petroleum and coal products
	JSIC 4711*	Warehousing
	JSIC 4721*	Refrigerated warehousing
	JSIC 5231	Petroleum (wholesale trade)
	JSIC 6031	Petrol stations (gasoline service stations)
	JSIC 6032*	Fuel stores, except gasoline service stations
	JSIC 9099**	Miscellaneous business services, n.e.c.

(An asterisk (\*) on the JSIC number indicates that the activities covered by the reservation under such number are limited to the activities related to oil industry.)

(Two asterisks (\*\*) on the JSIC number indicates that the activities covered by the reservation under such number are limited to the activities related to liquefied petroleum gas industry.)

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

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 investment in oil industry in Japan. All organic chemicals such as ethylene, ethylene glycol and polycarbonates are outside the scope of the oil industry. Therefore, prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investment in the manufacture of these products.

Phase-Out: None



11 Sector: Agriculture, Forestry and Fisheries, and related services (except fisheries within the Territorial Sea, Internal Waters, Exclusive Economic Zone and Continental Shelf provided for in the reservation No. 7 of 2A)

Sub-Sector:

Industry Classification:	JSIC 01	Agriculture
	JSIC 02	Forestry
	JSIC 03	Fisheries
	JSIC 04	Aquaculture
	JSIC 6224	Agricultural cooperatives
	JSIC 6225	Fishery and fishery processing cooperatives
	JSIC 791	Agriculture, forestry and fisheries cooperative associations, n.e.c.

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

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 investment in agriculture, forestry and fisheries, and related services (except fisheries within the Territorial Sea, Internal Waters, Exclusive Economic Zone and Continental Shelf provided for in the reservation No. 7 of 2A) in Japan.

Phase-Out: None

12 Sector: Security Guard Services

Sub-Sector:

Industry Classification: JSIC 9061 Guard services

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

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 investment in security guard services in Japan.

Phase-Out: None

13 Sector: Transport

Sub-Sector: Air Transport

Industry Classification: JSIC 4611 Air transport

Type of Reservation: National Treatment (Article 89)  
Most-Favored-Nation Treatment (Article 90)  
Prohibition of Performance Requirements (Article 93)

Level of Government: Central Government

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 investment in air transport business in Japan.

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

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

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

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

In the event an air carrier becomes a natural person or an entity referred to in subparagraphs (a) through (d) above, 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. Japanese air carriers and the companies having substantial control over the air carriers, such as holding companies, may reject the request from a natural person or entity set forth in subparagraphs 2(a) through (c) above, who owns equity investment in such air carriers or companies, to enter their names and addresses in the register of shareholders, in the event such air carriers and companies become natural persons or entities referred to in subparagraph 2(d) by accepting such request.

4. Foreign air carriers are required to obtain permissions of the Minister of Land, Infrastructure and Transportation to conduct international air transport businesses.

5. Permission of the Minister of Land, Infrastructure and Transport 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 and for transporting passengers or cargoes for remuneration, between points within Japan.

Phase-Out : None

14	Sector:	Transport
	Sub-Sector:	Air Transport
	Industry Classification:	JSIC 4621      Aircraft service, except air transport
	Type of Reservation:	National Treatment (Article 89) Prohibition of Performance Requirements (Article 93)
	Level of Government:	Central Government
	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:	<p>1. The prior notification requirement under the Foreign Exchange and Foreign Trade Law applies to foreign investors who intend to make investment in aerial work business in Japan.</p> <p>2. A permission of the Minister of Land, Infrastructure and Transport for conducting aerial work business is not granted to following natural persons or entities applying for the permission:</p> <ul style="list-style-type: none"> <li>(a) a natural person who does not have Japanese nationality;</li> <li>(b) a foreign state, or a foreign public entity or its equivalent;</li> <li>(c) a legal person or other entity constituted under the laws of any foreign state; and</li> </ul>

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

In the event a person conducting aerial work businesses becomes a natural person or an entity referred to in subparagraphs (a) through (d) above, 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 businesses.

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

Phase-Out: None



15    Sector:                    Transport

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

         Industry  
         Classification:

         Type of                    National Treatment (Article 89)  
         Reservation:            Prohibition of Performance  
   Requirements (Article 93)

         Level of                    Central Government  
         Government:

         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 state, or a foreign  
   public entity or its equivalent;

   (c)   a legal person or association  
   constituted under the laws of  
   any foreign state; and

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

2. An aircraft which has the nationality of a country other than Japan may not be registered in the national register.

Phase-Out: None

16	Sector:	Transport				
	Sub-Sector:	Freight Forwarding Business (excluding freight forwarding business using air transportation)				
	Industry Classification:	<table border="0" style="width: 100%;"> <tr> <td style="width: 150px;">JSIC 4441</td> <td>Collect-and-deliver freight transport</td> </tr> <tr> <td>JSIC 4821</td> <td>Deliver freight transport, except collect-and-deliver freight transport</td> </tr> </table>	JSIC 4441	Collect-and-deliver freight transport	JSIC 4821	Deliver freight transport, except collect-and-deliver freight transport
JSIC 4441	Collect-and-deliver freight transport					
JSIC 4821	Deliver freight transport, except collect-and-deliver freight transport					
	Type of Reservation:	<p>National Treatment (Article 89)</p> <p>Most-Favored-Nation Treatment (Article 90)</p> <p>Prohibition of Performance Requirements (Article 93)</p>				
	Level of Government:	Central Government				
	Measures:	<p>Freight Forwarding Business Law (Law No. 82 of 1989), Chapters 2, 3 and 4</p> <p>Enforcement Regulation of Freight Forwarding Business Law (Ministerial Ordinance of Ministry of Transport No. 20 of 1990)</p>				
	Description:	<p>The following natural persons or entities are required to register with, or to obtain permission or approval of, the Minister of Land, Infrastructure and Transport for conducting freight forwarding businesses using international shipping. Such registration shall be permitted, or such permission or approval shall be granted, on the basis of reciprocity to:</p> <p>(a) a natural person who does not have Japanese nationality;</p> <p>(b) a foreign state, or a foreign public entity or its equivalent;</p>				

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

Phase-Out :           None

17	Sector:	Transport				
	Sub-Sector:	Freight Forwarding Business (only freight forwarding business using air transportation)				
	Industry Classification:	<table border="0" style="width: 100%;"> <tr> <td style="width: 15%;">JSIC 4441</td> <td>Collect-and-deliver freight transport</td> </tr> <tr> <td>JSIC 4821</td> <td>Deliver freight transport, except collect-and-deliver freight transport</td> </tr> </table>	JSIC 4441	Collect-and-deliver freight transport	JSIC 4821	Deliver freight transport, except collect-and-deliver freight transport
JSIC 4441	Collect-and-deliver freight transport					
JSIC 4821	Deliver freight transport, except collect-and-deliver freight transport					
	Type of Reservation:	<p>National Treatment (Article 89)</p> <p>Most-Favored-Nation Treatment (Article 90)</p> <p>Prohibition of Performance Requirements (Article 93)</p>				
	Level of Government:	Central Government				
	Measures:	<p>Freight Forwarding Business Law (Law No. 82 of 1989), Chapters 2, 3 and 4</p> <p>Enforcement Regulation of Freight Forwarding Business Law (Ministerial Ordinance of Ministry of Transport No. 20 of 1990)</p>				
	Description:	<p>1. The following natural persons or entities may not conduct freight forwarding businesses using air transportation between any points in Japan:</p> <ul style="list-style-type: none"> <li>(a) a natural person who does not have Japanese nationality;</li> <li>(b) a foreign state, or a foreign public entity or its equivalent;</li> <li>(c) a legal person or association constituted under the laws of any foreign state; and</li> </ul>				

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

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

Phase-Out: None

18 Sector: Transport

Sub-Sector: Railway Transport

Industry Classification: JSIC 42 Railway transport  
 JSIC 4851 Railway facilities services

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

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 investment in railway transport industry in Japan. The manufacture of vehicles, parts and components for the railway transport industry is not included in railway transport industry. Therefore, the prior notification under the Foreign Exchange and Foreign Trade Law is not required for the investment in the manufacture of these products.

Phase-Out: None

19 Sector: Transport

Sub-Sector: Road Passenger Transport

Industry Classification: JSIC 4311 Common omnibus operators

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

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 investment in omnibus industry in Japan. The manufacture of vehicles, 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 investment in the manufacture of these products.

Phase-Out: None



20 Sector: Transport

Sub-Sector: Water Transport

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

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

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 investment in water transport industry in Japan. For greater certainty, "water transport industry" refers to oceangoing/seagoing transport, coastwise transport (i.e. maritime transport between ports 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.

Phase-Out: None

21	Sector:	Transport
	Sub-Sector:	Water Transport
	Industry Classification:	
	Type of Reservation:	National Treatment (Article 89) Most-Favored-Nation Treatment (Article 90)
	Level of Government:	Central Government
	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 Japanese ports which are not open to foreign commerce and from carrying cargoes or passengers between Japanese ports.
	Phase-Out:	None

22 Sector: Water Supply and Waterworks

Sub-Sector:

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

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

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 investment in water supply and waterworks industry in Japan.

Phase-Out: None

1B: Schedule of the Philippines

1 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: Prohibition of  
Performance Requirements  
(Article 93)

Level of  
Government: Central Government

Measures: The Corporation Code of the  
Philippines (Batas Pambansa Blg. 68),  
Article 25

Description: 1. Corporate secretary shall be a  
resident and citizen of the  
Philippines.

2. A treasurer shall be a resident  
of the Philippines

Phase-Out: None

2 Sector: All Sectors

Sub-Sector: Water Rights

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)

Level of  
Government: Central Government

Measures: The Water Code of The Philippines  
(Presidential Decree No. 1067)

Description: Except as otherwise herein provided,  
no person, including government  
instrumentalities or government-owned  
or controlled corporations, shall  
appropriate water without water  
rights, which shall be evidenced by a  
document known as a water permit.

"Water Rights" is the privilege  
granted by the government to  
appropriate and use water.

Only citizens of the Philippines, of  
legal age, as well as juridical  
persons, who are duly qualified by  
law to exploit and develop water  
resources, may apply for water  
permits.

Phase-Out: None

3 Sector: Manufacturing

Sub-Sector: Matters Related to Private Land  
Ownership

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)

Level of  
Government: Central Government

Measures: The Constitution of the Republic of  
the Philippines, Article XII

Description: Corporations, associations or  
partnerships with maximum 40 percent  
foreign equity can own private land.

Phase-Out: None

4 Sector: Manufacturing

Sub-Sector: Small and Medium-Sized Domestic Market Enterprises

Industry Classification:

Type of Reservation: National Treatment (Article 89)  
Prohibition of Performance Requirements (Article 93)

Level of Government: Central Government

Measures: The Constitution of the Republic of the Philippines, Article XII,  
Foreign Investment Act of 1991 (Republic Act No. 7042, as amended by Republic Act No. 8179), Sections 3, 6, 7 and 8

Description: 1. Foreign equity is restricted to maximum of 40 percent for:

- (a) Small and medium-sized domestic market enterprises with paid-in equity capital of less than the equivalent of US\$ 200,000; or
- (b) Small and medium-sized domestic market enterprises which involve advanced technology or employ at least 50 direct employees with minimum paid-in equity capital of less than US\$ 100,000.

2. Foreign equity is allowed up to 100 percent if an enterprise exports at least 60 percent of its total production output.

For the purposes of this reservation, the term "domestic market enterprises" shall mean enterprises which produce goods for sale, or render services to the domestic market entirely or if exporting a portion of their output fails to consistently export at least 60 percent thereof.

Phase-Out: None





6 Sector: Manufacturing

Sub-Sector: Export Requirement

Industry Classification:

Type of Reservation: National Treatment (Article 89)  
Prohibition of Performance Requirements (Article 93)

Level of Government: Central Government

Measures: Omnibus Investments Code of 1987 (Executive Order No. 226), Article 32  
Special Economic Zone Act of 1995 (Republic Act No. 7916), Section 23  
Bases Conversion and Development Act of 1992 (Republic Act No. 7227)

Description: 1. An enterprise with more than 40 percent foreign equity must export at least 70 percent of its total production output to qualify for Board of Investments registration and be entitled to incentives under the Omnibus Investments Code.

2. Under the Special Economic Zone Act, an individual, association, partnership, corporation or other form of business organization registered with the Philippine Economic Zone Authority (PEZA) as an export enterprise engaged in manufacturing activity falling within the purview of the said Act shall be required to export 100 percent of its production, unless a lower percentage of its production for exportation is prescribed by the PEZA Board subject to such terms and conditions as the latter may determine.

3. Under the Bases Conversion and Development Act, an individual, association, partnership, corporation or other form of business organization registered with the Base Conversion and Development Authority (BCDA) and the Subic Bay Metropolitan Authority (SBMA) as an export enterprise engaged in manufacturing activity falling within the purview of the said Act shall be required to export 100 percent of its production, unless a lower percentage of its production, unless a lower percentage of its production for exportation is prescribed by the BCDA and the SBMA Board subject to such terms and conditions as the BCDA and the SBMA Board may determine.

Phase-Out : None

7 Sector: Manufacturing

Sub-Sector: Divestment Requirement

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)

Level of  
Government: Central Government

Measures: Omnibus Investments Code of 1987  
(Executive Order No. 226), Article 32

Description: Enterprises registered under the  
Investment Priorities Plan (except  
those exporting 100 percent of their  
total production output), to which  
the Board of Investment (BOI)  
incentives are granted, must attain  
the status of a Philippine national  
within 30 years from the date of  
registration through public  
participation or within such longer  
period as the BOI may require, taking  
into account the export potential of  
the project of that enterprise.  
Considering the 10-year period from  
the date of registration within which  
to avail themselves of the BOI  
incentives, registered companies can  
opt to surrender their BOI  
registration and continue their  
operation without BOI incentives and  
need not comply with divestment  
requirements. For the purposes of  
this reservation, the term  
"Philippine national" shall mean an  
enterprise organized under the laws  
of the Philippines of which at least  
60 percent of the capital stock  
outstanding is owned and held by  
citizens of the Philippines.

Phase-Out: None

8 Sector: Manufacturing  
Sub-Sector: Iron and Steel  
Industry  
Classification:  
Type of Reservation: National Treatment (Article 89)  
Level of Government: Central Government  
Measures: Iron and Steel Industry Act (Republic Act No. 7103), Sections 5, 6 and 7  
Description: A juridical person with maximum of 65 percent foreign equity certified by the Board of Investments is entitled to incentives.  
Phase-Out: Measures relating to this reservation shall be terminated by the end of the year 2006.

9 Sector: Manufacturing

Sub-Sector: Culture, production, milling, processing, trading excepting retailing, of rice and corn and acquiring, by barter, purchase or otherwise, rice and corn and the by-products thereof.

Industry Classification:

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

Measures: Authorizing Aliens as well as Corporations, Partnerships Owned in whole or in part by Foreigners to Engage in Rice and Corn Industry, and for other Purposes (Presidential Decree No. 194), Section 5

Description: Foreign equity is allowed up to 40 percent.

Phase-Out: None

10 Sector: Manufacturing

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: Most-Favored-Nation Treatment  
(Article 90)

Level of  
Government: Central Government

Measures: Omnibus Investment Codes of 1987  
(Executive Order No. 226), Article 7

Description: Suspension of the nationality  
requirement in the Omnibus Investment  
Code of 1987 is allowed to  
Association of Southeast Asia Nations  
(ASEAN) projects, or investments by  
ASEAN nationals, regional ASEAN or  
multinational financial institutions  
including their subsidiaries in  
preferred projects and/or projects  
through either financial or technical  
assistance agreements entered into by  
the President of the Philippines, and  
regional complementation such as  
ASEAN Industrial Cooperation Scheme  
(AICO) for the manufacture of a  
particular product which seeks to  
take advantage of economies of scale.

Phase-Out: None

11 Sector: Energy

Sub-Sector: Geothermal Energy, Natural Gas and Methane Gas

Industry Classification:

Type of Reservation: National Treatment (Article 89)  
Prohibition of Performance Requirements (Article 93)

Level of Government: Central Government

Measures: Geothermal Energy, Natural Gas and Methane Gas Law (Republic Act 5092), Sections 6 and 28,

Description: 1. In case of an individual, he shall be a citizen of the Philippines.

2. In case of an association of individuals, it shall be either a partnership or a corporation duly organized and constituted under the laws of the Philippines, at least 60 percent of the capital of which is and shall at all times be owned and held by citizens of the Philippines.

3. Permittees and/or lessees and their contractors or operators are obligated to give preference to the citizens of the Philippines in all types of employment within the Area of the Philippines, insofar as such citizens are qualified to perform the corresponding work with reasonable efficiency and without hazard to the safety of the operations; and are obligated likewise to maintain effective programs of training and advancement commensurate with the demonstrated abilities of such citizens to perform satisfactorily the various types of operations involved.



Phase-Out :        None

12 Sector: Energy

Sub-Sector: Atomic Energy

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)

Level of  
Government: Central Government

Measures: Atomic Energy Regulatory and  
Liability Act of 1968 (Republic Act  
No. 5207), Section 9

Description: No license to acquire, own, or  
operate any atomic energy facility  
shall be issued to an alien, or any  
corporation or other entity which is  
owned or controlled by an alien, a  
foreign corporation, or a foreign  
government. A corporation or entity  
is not owned or controlled by an  
alien, a foreign corporation or a  
foreign government if at least 60  
percent of its capital stock is owned  
by the citizens of the Philippines.

Phase-Out: None

13 Sector: Mining

Sub-Sector: Small-Scale Mining

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)

Level of  
Government: Central Government

Measures: The Constitution of the Republic of  
the Philippines, Article XII

People's Small-Scale Mining Act of  
1991 (Republic Act No. 7076),

Description: Only citizens of the Philippines or  
corporations at least 60 percent of  
whose capital is owned by citizens of  
the Philippines, who voluntarily form  
a cooperative duly licensed by the  
Department of Environment and Natural  
Resources may engage in the  
extraction or removal of minerals or  
ore-bearing materials.

"Small-scale mining" refers to mining  
activities which rely heavily on  
manual labor using simple implement  
and methods and do not use explosives  
or heavy mining equipment.

Phase-Out: None

14    Sector:            Mining

         Sub-Sector:       Mining other than Small-Scale Mining

         Industry  
Classification:

         Type of  
Reservation:            National Treatment (Article 89)

         Level of  
Government:            Central Government

         Measures:        The Constitution of the Republic of  
                                 the Philippines, Article XII  
                                 Philippine Mining Act of 1995  
                                 (Republic Act No. 7942)

         Description:     Foreign equity is allowed up to 40  
                                 percent for projects covered by  
                                 Mineral Production Sharing Agreement  
                                 (MPSA), Co-Production Agreement (CPA)  
                                 or Joint Venture Agreement (JVA).  
                                 Foreign equity is allowed up to 100  
                                 percent for projects covered by the  
                                 Financial or Technical Assistance  
                                 Agreement (FTAA) with the President  
                                 of the Philippines.

         Phase-Out:        None

15 Sector: Ownership of Condominium

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)

Level of  
Government: Central Government

Measures: The Condominium Act (Republic Act No. 4726), Section 5

Description: Where the common areas in the condominium project are owned by the owners of separate units as co-owners thereof, no condominium unit therein shall be conveyed or transferred to persons other than the citizens of the Philippines or corporations at least 60 percent of the capital stock of which belong to the citizens of the Philippines, except in cases of hereditary succession.

Phase-Out: None



17 Sector: Matters Related to Ownership of all lands of the public domain and natural resources other than those covered by other sectors

Sub-Sector:

Industry Classification:

Type of Reservation: National Treatment (Article 89)

Level of Government: Central Government

Measures: The Constitution of the Republic of the Philippines, Article XII

Description: All lands of the public domain and natural resources other than those covered by other sectors are owned by the State. With the exception of agricultural lands, all lands of public domain and other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with citizens of the Philippines, or corporations or associations at least 60 percent of whose capital is owned by such citizens.

Phase-Out: None

18 Sector: Shipping  
Sub-Sector: Domestic Shipping  
Industry  
Classification:  
Type of  
Reservation: National Treatment (Article 89)  
Level of  
Government: Central Government  
Measures: Domestic Shipping Development Act of  
2004 (Republic Act No. 9295)  
Description: No foreign vessel shall be allowed to  
transport passengers or cargo between  
ports or places within the Philippine  
territorial waters, except upon the  
grant of a Special Permit by the  
Maritime Industry Authority (MARINA)  
when no domestic vessel is available  
or suitable to provide the needed  
shipping service and public interest  
warrants the same.  
Phase-Out: None



Part 2  
Reservations for Future Measures

1. The Schedule of a Party sets out, pursuant to paragraph 3 of Article 94, the reservations taken by that Party with respect to specific sectors, sub-sectors or activities for which it may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 89 (National Treatment);
- (b) Article 90 (Most-Favored-Nation Treatment); or
- (c) Article 93 (Prohibition of Performance Requirements).

2. Each reservation sets out the following elements:

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

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

4. For the purposes of this Part, the term "JSIC" means Japan Standard Industrial Classification as set out in the Statistics Bureau, Ministry of Internal Affairs and Communications, revised on March 7, 2002.

2A: Schedule of Japan

- 1 Sector: All Sectors
- Sub-Sector:
- Industry  
Classification:
- Type of  
Reservation: National Treatment (Article 89)  
Prohibition of Performance  
Requirements (Article 93)
- Description: When transferring or disposing of its  
equity interests in, or the assets  
of, a state enterprise or a  
governmental entity, Japan may:
- (a) prohibit or impose limitations  
on the ownership of such  
interests or assets by investors  
of the Philippines or their  
investments;
  - (b) impose limitations on the  
ability of investors of the  
Philippines 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.
- Measures:

2 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)  
Prohibition of Performance  
Requirements (Article 93)

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

Measures:

3 Sector: All Sectors

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)  
Most-Favored-Nation Treatment  
(Article 90)

Description: National Treatment and Most-Favored-  
Nation Treatment may not be accorded  
to investors of the Philippines and  
their investments with respect to  
subsidies for research and  
development.

Measures:

4	Sector:	Aerospace Industry	
	Sub-Sector:	Aircraft Industry	
		Space Industry	
	Industry Classification:	JSIC 271*	Manufacture of electrical generating, transmission, distribution and industrial apparatus
		JSIC 274*	Manufacture of electronic equipment
		JSIC 275*	Manufacture of electric measuring instruments
		JSIC 279*	Manufacture of miscellaneous electrical machinery equipment and supplies
		JSIC 28*	Manufacture of information and communication electronics equipment
		JSIC 29*	Manufacture of electronic parts and devices
		JSIC 304	Manufacture of aircraft and parts
		JSIC 3059*	Manufacture of miscellaneous industrial trucks and parts and accessories
		JSIC 3099*	Manufacture of transportation equipment, n.e.c.
		JSIC 8711*	General machine repair shops, except construction and mining machinery

JSIC 872\*      Electrical machinery,  
                 apparatus, appliances  
                 and supplies repair shop

(An asterisk (\*) on the JSIC number indicates that the activities covered by the reservation under such number are limited to the activities related to aircraft and space industry)

Type of  
Reservation:      National Treatment (Article 89)  
                 Prohibition of Performance  
                 Requirements (Article 93)

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

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

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

5 Sector: Arms and Explosives Industry

Sub-Sector: Arms Industry

Explosives Manufacturing Industry

Industry Classification: JSIC 1791 Manufacture of explosives

JSIC 271\* Manufacture of electrical generating, transmission, distribution and industrial apparatus

JSIC 274\* Manufacture of electronic equipment

JSIC 275\* Manufacture of electric measuring instruments

JSIC 279\* Manufacture of miscellaneous electrical machinery equipment and supplies

JSIC 28\* Manufacture of information and communication electronics equipment

JSIC 29\* Manufacture of electronic parts and devices

JSIC 303\* Shipbuilding and repairing, and manufacture of marine engines

JSIC 3059\* Manufacture of miscellaneous industrial trucks and parts and accessories

JSIC 3099\* Manufacture of transportation equipment, n.e.c.

JSIC 3281	Manufacture of ordnance and accessories
JSIC 8711*	General machine repair shops, except construction and mining machinery
JSIC 872*	Electrical machinery, apparatus, appliances and supplies repair shop

(An asterisk (\*) on the JSIC number indicates that the activities covered by the reservation under such number are limited to the activities related to arms industry.)

Type of Reservation:	National Treatment (Article 89) Prohibition of Performance Requirements (Article 93)
Description:	Japan reserves the right to adopt or maintain any measure relating to investment in arms industry and explosives manufacturing industry.
Measures:	Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27 and 30  Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 and 5



6	Sector:	Energy
	Sub-Sector:	Electricity Utility Industry
		Gas Utility Industry
		Nuclear Energy Industry
	Industry Classification:	JSIC 0519      Miscellaneous metal mining (limited to nuclear materials)
		JSIC 2491      Manufacture of nuclear fuel
		JSIC 271*      Manufacture of electrical generating, transmission, distribution and industrial apparatus
		JSIC 274*      Manufacture of electronic equipment
		JSIC 275*      Manufacture of electric measuring instruments
		JSIC 279*      Manufacture of miscellaneous electrical machinery equipment and supplies
		JSIC 28*        Manufacture of information and communication electronics equipment
		JSIC 29*        Manufacture of electronic parts and devices
		JSIC 303*      Shipbuilding and repairing, and manufacture of marine engines
		JSIC 3059*     Manufacture of miscellaneous industrial trucks and parts and accessories

JSIC 3099*	Manufacture of transportation equipment, n.e.c.
JSIC 331	Production, transmission and distribution of electricity
JSIC 3411	Gasworks
JSIC 3412	Gas distribution
JSIC 3413	Gas establishments (main office, office)
JSIC 8711*	General machine repair shops, except construction and mining machinery
JSIC 872*	Electrical machinery, apparatus, appliances and supplies repair shop

(An asterisk (\*) on the JSIC number indicates that the activities covered by the reservation under such number are limited to the activities related to nuclear energy industry.)

Type of Reservation:	National Treatment (Article 89) Prohibition of Performance Requirements (Article 93)
Description:	Japan reserves the right to adopt or maintain any measure relating to investment in the energy industry listed in the "Sub-Sector" element above.
Measures:	Foreign Exchange and Foreign Trade Law (Law No. 228 of 1949), Articles 27 and 30  Cabinet Order on Foreign Direct Investment (Cabinet Order No. 261 of 1980), Articles 3 and 5

7 Sector: Fisheries

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

Industry Classification: JSIC 031 Marine fisheries  
 JSIC 032 Inland water fisheries  
 JSIC 041 Marine aquaculture  
 JSIC 042 Inland water aquaculture  
 JSIC 8493 Recreational fishing guide business

Type of Reservation: National Treatment (Article 89)  
 Most-Favored-Nation Treatment (Article 90)  
 Prohibition of Performance Requirements (Article 93)

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

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

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

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

Measures:

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

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

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

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

8 Sector: Information and Communications

Sub-Sector: Broadcasting Industry

Industry Classification: JSIC 381 Public broadcasting, except cablecasting

JSIC 382 Private sector broadcasting, except cablecasting

JSIC 383 Cablecasting

Type of Reservation: National Treatment (Article 89)

Prohibition of Performance Requirements (Article 93)

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

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

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

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

Broadcast Law (Law No. 132 of 1950), Articles 52-8 and 52-13

9 Sector: Land Transaction

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)  
Most-Favored-Nation Treatment  
(Article 90)

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

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

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

Sub-Sector:

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)  
Most-Favored-Nation Treatment  
(Article 90)  
Prohibition of Performance  
Requirements (Article 93)

Description: Japan reserves the right to adopt or  
maintain any measure relating to  
investment in public law enforcement  
and correctional services, and  
investment 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.

Measures:

2B: Schedule of the Philippines

- 1 Sector: Fisheries
- Sub-Sector: Utilization of Marine Resource
- Industry  
Classification:
- Type of  
Reservation: National Treatment (Article 89)
- Measures: The Constitution of the Republic of  
the Philippines, Article XII
- Description: 1. No foreign participation is  
allowed for small-scale utilization  
of marine resources in archipelagic  
waters, territorial sea and exclusive  
economic zones.
2. For deep-sea fishing,  
corporations, associations or  
partnerships with maximum 40 percent  
foreign equity can enter into co-  
production, joint venture or  
production sharing agreement with the  
Philippine Government.



2 Sector: Agriculture

Sub-Sector: Lease of Public Lands (agricultural and foreshore lands)

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)

Measures: The Constitution of the Republic of the Philippines, Article XII

Description: For corporations, associations or partnerships with maximum of 40 percent foreign equity, lease of agricultural and foreshore lands covering an area not exceeding 1,000 hectares is allowed for a period of 25 years, renewable for another 25 years, or a maximum of 50 years.

3 Sector: Forestry

Sub-Sector: Lease of Public Lands (forest and timber lands)

Industry Classification:

Type of Reservation: National Treatment (Article 89)

Measures: The Constitution of the Republic of the Philippines, Article XII

Description: 1. For corporations, associations or partnerships with maximum of 40 percent foreign equity, lease of forest or timber lands is allowed for a period of 25 years, renewable another 25 years, subject to participation in any of the following agreements or arrangements:

- (a) Integrated Forest Management Agreement (IFMA) - maximum of 40,000 hectares; and
- (b) Forest Land Grazing Management Arrangement (FLGMA) - maximum of 2,000 hectares.

2. The following are allowed for corporations, associations or partnerships with maximum 40 percent foreign equity:

- (a) Rattan Plantation Lease - maximum 30,000 hectares for a period of 25 years renewable for another 25 years; and
- (b) Special Land Use Permit/Lease - maximum of 1 year (permit) or 25 years (lease).

4 Sector: Agriculture

Sub-Sector: Lands Covered by the Comprehensive Agrarian Reform Program (CARP)

Industry Classification:

Type of Reservation: National Treatment (Article 89)

Measures: The Constitution of the Republic of the Philippines, Article XII

Description: Only citizens of the Philippines can be Agrarian Reform Beneficiaries.

- 5 Sector: Manufacturing
- Sub-Sector: Manufacture, repair, storage, and/or distribution of products and/or ingredients requiring Philippine National Police (PNP) clearance:
- (a) Firearms (handguns to shotguns), parts of firearms and ammunition thereof, instruments or implements used or intended to be used in the manufacture of firearms
  - (b) Gunpowder
  - (c) Dynamite
  - (d) Blasting supplies
  - (e) Ingredients used in making explosives:
    - (i) Chlorates of potassium and sodium
    - (ii) Nitrates of ammonium, potassium, sodium, barium, copper (II), lead (II), calcium and cuprite
    - (iii) Nitric acid
    - (iv) Nitrocellulose
    - (v) Perchlorates of ammonium, potassium and sodium
    - (vi) Dinitrocellulose
    - (vii) Glycerol
    - (viii) Amorphous Phosphorus
    - (ix) Hydrogen Peroxide
    - (x) Strontium nitrate powder
    - (xi) Toluene

(f) Telescopic sights, sniper scope  
and other similar devices

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)

Measures: Foreign Investments Act of 1991  
(Republic Act No. 7042, as amended by  
Republic Act No. 8179), Section 8

Description: Foreign equity is limited up to 40  
percent for reasons of security and  
defense.

- 6 Sector: Manufacturing
- Sub-Sector: Manufacture, repair, storage and/or distribution of products requiring Department of National Defense (DND) clearance:
- (a) Guns and ammunition for warfare
  - (b) Military ordnance and components thereof (e.g., torpedoes, depth charges, bombs, grenades, missiles)
  - (c) Gunnery, bombing and fire control systems and components
  - (d) Guided missiles/missile systems and components
  - (e) Tactical aircraft (fixed and rotary-winged) and components thereof
  - (f) Space vehicles and component systems
  - (g) Combat vessels (air, land and naval) and auxiliaries
  - (h) Weapons repair and maintenance equipment
  - (i) Military communications equipment
  - (j) Night vision equipment
  - (k) Stimulated coherent radiation devices, components and accessories
  - (l) Armament training devices
  - (m) Others as may be determined by the Secretary of the DND

Industry  
Classification:

Type of  
Reservation: National Treatment (Article 89)

Measures: Foreign Investment Act of 1991  
(Republic Act No. 7042, as amended by  
Republic Act No. 8179), Section 8

Description: Foreign equity is limited up to 40  
percent for reasons of security and  
defense.

7 Sector: Manufacturing  
Sub-Sector: Manufacture of dangerous drugs  
Industry  
Classification:  
Type of Reservation: National Treatment (Article 89)  
Measures: Foreign Investments Act of 1991  
(Republic Act No. 7042, as amended by  
Republic Act No. 8179), Section 8  
Comprehensive Dangerous Drugs Act of  
2002 (Republic Act No. 9165)  
Description: Foreign equity is limited up to 40  
percent for reasons of risk to public  
health and morals.



8 Sector: Manufacturing

Sub-Sector: Manufacture of firecrackers and other pyrotechnic devices

Industry Classification:

Type of Reservation: National Treatment (Article 89)

Measures: An Act Regulating the Sale, Manufacture, Distribution and Use of Firecrackers and Other Pyrotechnics Devices (Republic Act No. 7183)

Description: No foreign equity participation is allowed.

9 Sector: Manufacturing

Sub-Sector: Manufacture and distribution of toy  
Firearms and explosives

Industry  
Classification:

Type of  
Reservation: Prohibition of Performance  
Requirements (Article 93)

Measures: Letter of instructions (LOI) No. 1264

Description: Prohibition of importation,  
manufacture, distribution, sales and  
display of toy firearms and  
explosives which, even if dissimilar  
to in some aspects, are replicas in  
appearance, measurements, color and  
parts as its genuine counterpart  
firearms and explosives.

Annex 8 referred to in Chapter 9  
Specific Commitments for the Movement of Natural Persons

Part 1  
Specific Commitments of Japan

Japan may require a natural person of the Philippines seeking entry and temporary stay under the terms and conditions set out in each Section of this Annex to obtain an appropriate visa or its equivalent prior to entry.

Section 1  
Short-term Business Visitors

Entry and temporary stay shall be granted to a natural person of the Philippines who stays in Japan for a period set out in Appendix 1, without acquiring remuneration from within Japan and without engaging in making direct sales to the general public or in supplying services himself, for the purposes of participating in business contacts including negotiations for the sale of goods or services, or other similar activities including those to prepare for establishing commercial presence in Japan.

Section 2  
Intra-corporate Transferees

1. Entry and temporary stay for a period set out in Appendix 1, shall be granted to a natural person of the Philippines who has been employed by a juridical person that supplies services in Japan or by a juridical person that invests in Japan, for a period not less than one (1) year immediately preceding the date of his application for the entry and temporary stay in Japan, who is being transferred to its branch office or its representative office in Japan, or a juridical person constituted or organized in Japan owned or controlled by or affiliated with the aforementioned juridical person, and who engages in one of the following activities during its temporary stay in Japan:

- (a) activities to direct a branch office or a representative office as its head;
- (b) activities to direct a juridical person as its board member or auditor;
- (c) activities to direct one or more departments of a juridical person;

- (d) activities which require technology or knowledge at an advanced level pertinent to physical sciences, engineering or other natural sciences, recognized under the status of residence of "Engineer" provided for in the Immigration Control and Refugee Recognition Act (Cabinet Order No 319 of 1951); or
- (e) activities which require knowledge at an advanced level pertinent to human science, including jurisprudence, economics, business management, accounting or which require ideas and sensitivity based on culture of a country other than Japan, recognized under the status of residence of "Specialist in Humanities/International Services" provided for in the Immigration Control and Refugee Recognition Act.

Note: For the purposes of this Annex, a juridical person is "affiliated" with another juridical person when the latter can significantly affect the decision making of the former on finance and business policy.

2. Activities which require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in subparagraphs 1 (d) and (e) above mean activities in which the natural person may not be able to engage without the application of specialized technology or knowledge of natural or human sciences acquired by him, by completing college education (i.e. bachelor's degree) or higher education, or by having been engaged in the activities for at least ten (10) years.

### Section 3 Investors

Entry and temporary stay for a period set out in Appendix 1 shall be granted to a natural person of the Philippines who engages in one of the following activities during its temporary stay in Japan:

- (a) activities to invest in business in Japan and manage such business;
- (b) activities to manage business in Japan on behalf of a person other than that of Japan who has invested in such business; or
- (c) conduct of business in Japan in which a person other than that of Japan has invested.

Section 4  
Natural Persons of the Philippines who Engage in  
Professional Services

Entry and temporary stay for a period set out in Appendix 1 shall be granted to a natural person of the Philippines who is a legal, accounting or taxation service supplier qualified under Japanese law and who engages in one of the following activities during its temporary stay in Japan:

- (a) legal services supplied by a lawyer qualified as "Bengoshi" under Japanese law;
- (b) consultancy on law of jurisdiction where the service supplier is a qualified lawyer on condition that the service supplier is qualified as "Gaikoku-Ho-Jimu-Bengoshi" under Japanese law;
- (c) legal services supplied by a patent attorney qualified as "Benrishi" under Japanese law;
- (d) legal services supplied by a maritime procedure agent qualified as "Kaijidairishi" under Japanese law;
- (e) accounting, auditing and bookkeeping services supplied by an accountant qualified as "Koninkaikeishi" under Japanese law; or
- (f) taxation services supplied by a tax accountant qualified as "Zeirishi" under Japanese law.

Section 5  
Natural Persons of the Philippines who Engage in  
Supplying Services, which Require Technology or Knowledge  
at an Advanced Level or which Require Specialized Skills  
belonging to Particular Fields of Industry,  
on the Basis of a Contract with Public or  
Private Organizations in Japan

1. Entry and temporary stay for a period set out in Appendix 1 shall be granted to a natural person of the Philippines who engages in one of the following business activities of supplying services, during its temporary stay in Japan on the basis of a personal contract with a public or private organization in Japan:

- (a) activities which require technology or knowledge at an advanced level pertinent to physical sciences, engineering or other natural sciences under the status of residence of "Engineer", whose scope is provided in the Immigration Control and Refugee Recognition Act; or
- (b) activities which require knowledge at an advanced level pertinent to human science, including jurisprudence, economics, business management and accounting, or which require ideas and sensitivity based on culture of a country other than Japan, under the status of residence of "Specialist in Humanities/International Services", whose scope is provided in the Immigration Control and Refugee Recognition Act.

2. Activities which require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in paragraph 1 above mean activities in which the natural person may not be able to engage without the application of specialized technology or knowledge of natural or human sciences acquired by the natural person, by completing college education (i.e. bachelor's degree) or higher education, or by having been engaged in the activities for at least ten (10) years.

#### Section 6

#### Natural Persons of the Philippines who Engage in Supplying Services as Nurses or Certified Careworkers or Related Activities, on the Basis of a Contract with Public or Private Organizations in Japan, or on the Basis of Admission to Public or Private Training Facilities in Japan

1. Entry and temporary stay for a period set out in Appendix 1 shall be granted to a natural person of the Philippines set out in Appendix 2, who is designated and notified to the Government of Japan by the Government of the Philippines in accordance with the Implementing Agreement, who enters into Japan on the dates specified by the Government of Japan and who engages in one of the following activities during its temporary stay in Japan:

- (a) for the purposes of obtaining a qualification as a nurse under Japanese law (hereinafter referred to in this Section as "Kangoshi");

- (i) pursuing the course of training including Japanese language training, referred to in the Implementing Agreement, for six (6) months; and
- (ii) after completion of the said training, acquiring necessary knowledge and skills at the hospital mentioned below through the training under the supervision of "Kangoshi",

provided that such activities are conducted on the basis of a personal contract with a public or private organization in Japan which establishes a hospital under Japanese laws and regulations and which is referred by a coordinating organization approved to conduct its activities by the competent authority of Japan in accordance with its laws and regulations and notified to the Government of the Philippines by the Government of Japan, or in cases where there is no such organization, by that competent authority of Japan;

- (b) for the purposes of obtaining a qualification as a certified careworker under Japanese law (hereinafter referred to in this Section as "Kaigofukushishi");
  - (i) pursuing the course of training including Japanese language training, referred to in the Implementing Agreement, for six (6) months; and
  - (ii) after completion of the said training, acquiring necessary knowledge and skills at the caregiving facility mentioned below through the training under the supervision of "Kaigofukushishi",

provided that such activities are conducted on the basis of a personal contract with a public or private organization in Japan which establishes a caregiving facility under Japanese laws and regulations and which is referred by a coordinating organization approved to conduct its activities by the competent authority of Japan in accordance with its laws and regulations and notified to the Government of the Philippines by the Government of Japan, or in cases where there is no such organization, by that competent authority of Japan; or

- (c) for the purposes of obtaining a qualification as a "Kaigofukushishi";
  - (i) pursuing the course of training including Japanese language training, referred to in the Implementing Agreement, for six (6) months; and
  - (ii) after completion of the said training, acquiring necessary knowledge and skills at the training facility mentioned below, provided that the duration of the course of the training in the said training facility shall not exceed four (4) years,

provided further that such activities are conducted on the basis of an admission to a public or private training facility for "Kaigofukushishi" in Japan under Japanese laws and regulations.

Note 1: For the purposes of paragraph 1 above, "training under the supervision of 'Kangoshi'", "training under the supervision of 'Kaigofukushishi'", a "hospital", a "caregiving facility", a "public or private training facility for 'Kaigofukushishi'" and a "personal contract" shall satisfy the conditions notified by the Government of Japan to the Government of the Philippines.



Note 2: Japan may exempt, totally or partially, a natural person of the Philippines from the training referred to in subparagraphs 1(a)(i), 1(b)(i) or 1(c)(i) above, in such cases as when the Government of Japan considers that language ability of the natural person as sufficient to engage in the activities referred to in subparagraph 1(a)(ii), 1(b)(ii) or 1(c)(ii) above.

Note 3: With reference to subparagraph 1(a) above, the natural person has, upon application and in accordance with the laws and regulations of Japan, a maximum of three (3) opportunities to take the national examination for "Kangoshi", under normal circumstances, during the maximum period of its stay set out in Appendix 1

2. Entry and temporary stay for a period set out in Appendix 1 shall be granted to a natural person of the Philippines;

- (a) who are qualified as "Kangoshi" or "Kaigofukushishi" during the stay under paragraph 1 above;
- (b) who are not qualified as "Kangoshi" during the stay under paragraph 1 above but qualified as such by passing the national examination for "Kangoshi"; or
- (c) who are not qualified as "Kaigofukushishi" during the stay under paragraph 1 above but qualified as such by passing the national examination for "Kaigofukushishi" after the stay referred to in subparagraph 1(b) above,

and who engages in supply of service as "Kangoshi" or "Kaigofukushishi" during its temporary stay in Japan, on the basis of a personal contract with a public or private organization in Japan.

Note 1: For the purposes of this paragraph, a "personal contract" and a "public or private organization in Japan" shall satisfy the conditions notified by the Government of Japan to the Government of the Philippines.

Note 2: Natural persons of the Philippines who fall under subparagraph 2(a) above and leave Japan without obtaining re-entry permit, or who fall under subparagraphs 2(b) or 2 (c) above:

- (a) shall be designated and notified to the Government of Japan by the Government of the Philippines in accordance with the Implementing Agreement; and
- (b) shall have entered into personal contracts with public or private organization in Japan which is referred by a coordinating organization approved to conduct its activities by the competent authority of Japan in accordance with its laws and regulations and notified to the Government of the Philippines by the Government of Japan, or in cases where there is no such organization, by that competent authority of Japan,

to be granted entry and temporary stay under this paragraph.

Note 3: For the purposes of this Section, "a coordinating organization approved to conduct its activities by the competent authority of Japan" shall be that having entered into a contract with the competent authority of the Philippines in regard to the referral of a public or private organization to a natural person of the Philippines, and "the competent authority of the Philippines" means Philippines Overseas Employment Administration.

Note 4: For the purposes of this Section, the "competent authority of Japan" means the Ministry of Health, Labour and Welfare.

#### Appendix 1

1. For the purposes of entry and temporary stay as set out in Section 1, Japan shall grant a stay of ninety (90) days, which may be extended.

2. For the purposes of entry and temporary stay as set out in Sections 2 through 5, Japan shall grant a stay of one (1) or three (3) years, which may be extended.

3. For the purposes of entry and temporary stay as set out in paragraph 1 of Section 6, Japan shall grant a stay of one (1) year, which may be extended:

- (a) in the case of subparagraph (a), not exceeding twice for each and equal period of time;
- (b) in the case of subparagraph (b), not exceeding three (3) times for each and equal period of time; and
- (c) in the case of subparagraph (c), up to the period necessary for the completion of the course of the training in the training facility referred to in that subparagraph.

4. For the purposes of entry and temporary stay as set out in paragraph 2 of Section 6, Japan shall grant a stay of up to three (3) years, which may be extended.

#### Appendix 2

1. For the purposes of subparagraph 1(a) of Section 6, a "natural person of the Philippines" shall be a natural person of the Philippines who is a qualified nurse under Philippine laws and regulations with work experience as a nurse for at least three (3) years;

Note: For the purposes of this paragraph, a "qualified nurse under Philippine laws and regulations" means a nurse who passed the Philippine Licensure Examination for Nurses under Philippine laws and regulations.

2. For the purposes of subparagraph 1(b) of Section 6, a "natural person of the Philippines" shall be a natural person of the Philippines who graduated with bachelor's degree from a higher education institution from which the minimum period required for graduation is four (4) years and certified as a caregiver by the Government of the Philippines in accordance with the laws and regulations of the Philippines, or a natural person of the Philippines who graduated from a nursing school; and

Note: For the purposes of this paragraph, a "nursing school" means a higher education institution authorized by the Philippine Government to operate a Bachelor of Science in Nursing program.

3. For the purposes of subparagraph 1(c) of Section 6, a "natural person of the Philippines" shall be a natural person of the Philippines who graduated with bachelor's degree from a higher education institution from which the minimum period required for graduation is four (4) years.

Part 2  
Specific Commitments of The Philippines  
Specific Commitments under Article 110

The Philippines may require a natural person of Japan seeking entry and temporary stay under the terms and conditions set out in each Section of this Annex to obtain an appropriate visa prior to entry.

Section 1  
Short-term Business Visitors

1. Entry and temporary stay shall be granted to a natural person of Japan, who stays in the Philippines for an initial period of fifty-nine (59) days, which may be extended every two (2) months thereafter for a total period of stay of one (1) year, without acquiring remuneration from the Philippines and without engaging in supplying services himself, for the purposes of participating in business contracts including negotiations for the sale of goods or services, or other similar activities including those to prepare for establishing commercial presence in the Philippines.
2. The Philippines shall exempt the natural person from obtaining Alien Employment Permit (AEP) from the Department of Labor and Employment (DOLE).

Section 2  
Intra-corporate Transferees

Entry and temporary stay for one (1) year, which may be extended, shall be granted to a natural person of Japan who is a manager, executive or person with specialized technology or knowledge, who has been employed by a juridical person that supplies services in Japan or by a juridical person that invests in Japan and who is being transferred to its branch, subsidiary, affiliate, representative office or joint venture partner in the Philippines, provided that:

- (a) if the position of the natural person constitutes the practice of a regulated profession under the laws and regulations of the Philippines, the natural person must secure a special permit to practice the regulated profession from the Professional Regulation Commission pursuant to Section 7(j) of Republic Act No. 8981, and obtain an AEP from DOLE pursuant to Article 40 of the Labor Code as amended.

- (b) if the position of the natural person does not constitute the practice of a regulated profession under the laws and regulations of the Philippines, the natural person must obtain an AEP from DOLE pursuant to Article 40 of the Labor Code as amended.

Section 3  
Investors

1. Entry and temporary stay for a period of one (1) year, which may be extended, shall be granted to a natural person of Japan who engages in one of the following activities:

- (a) activities to invest in business in the Philippines and manage such business;
- (b) activities to manage business in the Philippines on behalf of a person other than that of the Philippines who has invested in such business; or
- (c) conduct of business in the Philippines in which a person other than that of the Philippines has invested.

2. The Philippines shall require a natural person of Japan seeking entry and temporary stay under paragraph 1 above to obtain an AEP from DOLE pursuant to Article 40 of the Labor Code as amended. Provided that if the position constitutes the practice of a regulated profession under the laws and regulations of the Philippines, the natural person must also secure a special permit to practice the regulated profession from the Professional Regulation Commission subject to the provisions of Section 7(j) of Republic Act No. 8981.

Section 4  
Natural Persons of Japan who Engage  
in Professional Services

Entry and temporary stay for a period of one (1) year, which may be extended, shall be granted to a natural person of Japan who is an engineer including a chemical, civil, electrical, electronics and communications, geodetic, mechanical, metallurgical, mining, or sanitary engineer on the basis of a contract with public or private organizations in the Philippines, provided that he must secure a special permit to practice the regulated profession from the Professional Regulation Commission subject to the provisions of Section 7(j) Republic Act No. 8981 and AEP from DOLE pursuant to Article 40 of the Labor Code as amended.

Section 5  
Natural Persons of Japan who Engage in Supplying Services,  
which Require Technology or Knowledge at an Advanced Level  
or which Require Specialized Skills belonging to  
Particular Fields of Industry, on the Basis  
of a Contract with Public or Private Organizations  
in the Philippines

Entry and temporary stay for a period of one (1) year, which may be extended, shall be granted to a natural person of Japan who occupy a technical, advisory or supervisory position on the basis of a personal contract with a public or private organization in the Philippines, provided that he must obtain an AEP from DOLE pursuant to Article 40 of the Labor Code as amended.

Note: Technical, Advisory or Supervisory position does not include skilled labor, and does not involve the practice of regulated profession as defined under the laws and regulations of the Philippines.

Section 6

Natural Persons of Japan who Engage in Supplying Services  
as Nurses or Certified Careworkers or Related Activities,  
on the Basis of a Contract  
with Public or Private Organizations in the Philippines, or  
on the Basis of Admission  
to Public or Private Training Facilities in the Philippines

1. Entry and temporary stay for a period of six (6) months, shall be granted to a qualified Japanese nurse, who will enter the Philippines to undergo language training, which may be extended for a period of six (6) months to one (1) year for such a nurse to acquire related learning experience, for the purposes of preparation for taking the Philippine Proficiency Examination for Nurses.

Note: (a) "Qualified Japanese nurse" means the natural person of Japan who has satisfied all the following requirements:

- (i) Licensed nurse under Japanese law who is a graduate of nursing course under Japanese laws and regulations equivalent to Bachelors Degree in Nursing in the Philippines. The equivalent nursing course shall be determined by the appropriate agency in the Philippines; and
  - (ii) With at least three (3) years work experience as a licensed nurse in a hospital.
- (b) "Qualified Japanese nurse" must undergo language training in English and Filipino, culture orientation and related learning experience, prior to taking the Philippines Proficiency Examination for Nurses.
- (c) The Philippines may exempt, totally or partially, a qualified Japanese nurse from the language training referred to in Note (b) above, in such case as when the Government of the Philippines considers that language ability of the qualified Japanese nurse as sufficient to take the Philippine Proficiency Examination for Nurses and to engage in the activities in relation to services supplied by nurses.



- (d) The qualified Japanese nurse, upon application and in accordance with the laws and regulations of the Philippines, has a maximum of three (3) opportunities to take the Philippine Proficiency Examination for Nurses, under normal circumstances, during the maximum period of stay set out in paragraph 1 above.

2. Entry and temporary stay for a period co-terminus with the personal contract with a public or private organization in the Philippines, which may be extended, shall be granted to a qualified Japanese nurse who passed the Philippine Proficiency Examination for Nurses; provided that the natural person must secure a special permit to practice Nursing from the Professional Regulation Commission subject to the provisions of Section 7(j) Republic Act No. 8981 and AEP from DOLE pursuant to Article 40 of the Labor Code as amended.

3. For purposes of language training, qualified Japanese nurses may be accepted only in learning institutions accredited by the Bureau of Immigration. For purposes of culture orientation and related learning experience, qualified Japanese nurses may be accepted only in identified teaching and training hospitals accredited by the Department of Health.

4. For purposes of employment, qualified Japanese nurses who passed the Philippine Proficiency Examination for Nurses administered jointly by the Department of Health and Board of Nursing may work only in hospitals identified by the Department of Health.

5. If a qualification equivalent to certified careworker under Japanese law is established in the Philippines in the future, Philippines shall consult with Japan on issues related to this matter.

#### Specific Commitments under Article 110

1. The Department of Labor and Employment and the Bureau of Immigration shall issue administrative guidelines to eliminate duplication of requirements for the issuance of Alien Employment Permit and Special Work Permit, respectively.

2. The Philippines shall discuss with Japan, within three (3) years after the date of entry into force of the Agreement, the possibility of reducing the burden borne by natural persons of Japan who departs from the Philippines.