13 Sector: Transport

Obligations Concerned: National Treatment (Article 2)

Most-Favoured-Nation Treatment (Article 3)

Prohibition of Performance Requirements (Article 6)

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

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

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

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

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

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

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

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

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

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

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

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