

## Introduction

### Our Location Offer

Japan is the center of new trends and creativity and is a coveted testing ground for new products.

Today, increasing numbers of companies around the world are partnering with Japanese companies to develop products and services, create innovative technologies, and conduct R&D projects.

10 Advantages to investing in Japan are below;

1. Japan - A Market of Enormous Potential
2. Sophisticated Consumers with High Purchasing Power and Discerning Tastes
3. Promising Markets and Industries
4. Home of the World's Top Companies
5. SMEs Possess Unique Technologies
6. Innovation Ushering in the Future
7. A Gateway to the Asian Market
8. Foreign Companies Expanding Business in Japan
9. Mature Investment Infrastructure
10. A Secure, Comfortable Living Environment

More information;

"10 Advantages to Investing in Japan": [http://www.jetro.go.jp/en/invest/whyjapan/pdf/2009\\_10ad.pdf](http://www.jetro.go.jp/en/invest/whyjapan/pdf/2009_10ad.pdf)

### Introduction to investment regime

Foreign Direct Investment (FDI) is expected as the driver of "activation of regional economy", "the increase of productivity", and "new technology of new technologies. Japan encourages and welcomes FDI, and launched the "Invest Japan" initiative, a government-wide effort to promote FDI in Japan in 2003. Under this initiative, Japan set up the Invest Japan Business Support Center (IBSC) in Japan External Organization (JETRO), which is the one stop window to provide information and support foreign investors, as well as Invest Japan information desks at concerned ministries to facilitate FDI.

In June 2010, Japan has released "New Growth Strategy - Blueprint for revitalizing Japan", which is a package of policies for the recovery of strong economy. Promoting Japan as an Asian industrial center is one of major policies of the New Growth Strategy, and its objective is to revive Japan as an Asian industrial center for multinational companies. Details of policy measures under this initiative will be launched by the end of 2010.

### Investment priority plan/equivalent policy

N/A

### More information

N/A

## Regulation of foreign investment

Process for foreign entities/nationals to invest in our economy

## Japan

Japan does not have a screening process per se for inwards Foreign Direct Investment (FDI). Japan has a highly liberalized and open investment regime, and in principle, the Foreign Exchange and Foreign Trade Law (hereafter referred to as the Foreign Exchange Law) requires only ex post facto reporting for FDI to Japan.

The exception to the above applies to investments in sectors.

### 1. Regulated industrial sectors complying with international rule (OECD Code of Liberalization of Capital Movements)

- i) Industries related to national security (e.g. weapons, aircraft, nuclear power, spacecraft and industries manufacturing dual use items with a high probability of being converted to military uses)
- ii) Industries related to public order (e.g. Electricity, gas, heat supply, communications, broadcasting, water, railroads, passenger transport)
- iii) Industries related to public safety: biological chemicals, security services

### 2. Industrial sectors reserved under the OECD Code due to domestic circumstances in Japan: agriculture, forestry and fishing, oil, leather, air/maritime transport

To invest in our economy, prior notification is required. Once the notification is made, the investor must wait for from 2 weeks to 30 days before executing the investment, furthermore this waiting period may be shortened down to 5 business days after April, 2009 (The beginning of our fiscal year).

### Does this apply to all investment or, are there differential treatment?

This applies to all inwards FDI.

### Conditions of investment

The following is a list of exceptional sectors or matters where Japan reserves the right to adopt and/or maintain measures that do not conform with one or more of its principle positions of providing national and most-favored nation treatment to foreign investors and prohibiting performance requirements.

#### 1 Primary industries related to agriculture, forestry and fisheries

Legal Source or Authority: Foreign Exchange Law and: (i) for agriculture: Seeds and Seedlings Law, Seeds and Seedlings Law Enforcement Regulation; and (ii) for fisheries: Law for Regulation of Fishing Operation by Foreign Nations

#### 2 Oil industry

Legal Source or Authority: Foreign Exchange Law and Mining Law

#### 3 Leather and leather products manufacturing industry

Legal Source or Authority: Foreign Exchange Law

#### 4 Heat supply industry

Legal Source or Authority: Foreign Exchange Law

#### 5 Biological preparations manufacturing Industry

Legal Source or Authority: Foreign Exchange Law

#### 6 Water supply and water works Industry

Legal Source or Authority: Foreign Exchange Law

#### 7 Railway transport industry

Legal Source or Authority: Foreign Exchange Law

#### 8 Omnibus industry

Legal Source or Authority: Foreign Exchange Law

**Japan****9 Water transport industry**

**Legal Source or Authority: Foreign Exchange Law and Ship Law**

**10 Telecommunications industry**

**Legal Source or Authority: Foreign Exchange Law and Law concerning Nippon Telegraph and Telephone Corporation, etc.**

**11 Security industry**

**Legal Source or Authority: Foreign Exchange Law**

**12 Mining industry (including oil and natural gas exploration and development)**

**Legal Source or Authority: Mining Law**

**13 Air transport industry**

**Legal Source or Authority: Foreign Exchange Law and Civil Aeronautics Law**

**14 Registration of aircraft in the national register and matters arising from such registration**

**Legal Source or Authority: Civil Aeronautics Law**

**15 Matters related to or arising from the nationality of a ship, and the acquisition of ship or of any interest in ship**

**Legal Source or Authority: Ship Law**

**16 Explosives manufacturing industry**

**Legal Source or Authority: Foreign Exchange Law**

**17 Aircraft industry**

**Legal Source or Authority: Foreign Exchange Law**

**18 Arms industr**

**Legal Source or Authority: Foreign Exchange Law**

**19 Nuclear energy industry**

**Legal Source or Authority: Foreign Exchange Law**

**20 Space industry**

**Legal Source or Authority: Foreign Exchange Law**

**21 Electricity utility industry**

**Legal Source or Authority: Foreign Exchange Law**

**22 Gas utility industry**

**Legal Source or Authority: Foreign Exchange Law**

**23 Broadcasting industry**

**Legal Source or Authority: Foreign Exchange Law and Radio Law Broadcast Law**

**24 Freight forwarding business Industry**

**Legal Source or Authority: Freight Forwarding Business Law**

**25 Financial services (in regard of Deposit Insurance)**

**Legal Source or Authority: Deposit Insurance Law (The deposit insurance system only covers financial institutions which have their head offices within the jurisdiction of Japan.)**

**26 The maintenance, establishment or disposal (including privatization) of a public monopoly or state enterprise**

## Japan

Legal Source or Authority: N/A

### 27 Subsidies

Legal Source or Authority: N/A (National treatment may not be accorded in the case of subsidies designed for R&D investments.)

### 28 Land Transaction

Legal Source or Authority: Alien Land Law (Japan may prohibit or restrict the acquisition or lease of land properties in Japan by foreign investors, in principle, Japan will do so only on a reciprocal basis, and to date, such measures have never been executed.)

## Investment promotion and facilitation

The government of Japan continually encourages Foreign Direct Investment (FDI) in Japan and expects from FDI as the driver of 'the activation of regional economy', 'the increase of productivity' and 'the enrichment of quality of life'.

In June 2006, the Japanese government announced to accelerate efforts to achieve its goal of doubling Japan's total FDI stock to the level of 5% of GDP by 2010. Foreign Direct Investment in Japan has been steadily increasing and reached about JPY 18.4 trillion (US\$ 210 billion) as of the end of 2009.

To achieve this goal, Japanese government keeps moving on improving investment environment under "the Program for Acceleration of Foreign Direct Investment in Japan", which is the package of policy measures to enhance FDI in Japan. Especially the Ministry of Economy, Trade and Industry (METI) and Japan External Trade Organization (JETRO) have been supporting foreign firms through arranging business matching with Japanese companies as well as hosting Invest Japan Symposiums overseas to provide information on Japan's business and investment environment.

JETRO is a government related organization to promote mutual trade and investment between Japan and the rest of the world. JETRO established Invest Japan Business Support Center (IBSC), which is one stop center for a foreign investor, and IBSC provides hands-on support for individual companies who would like to set up a presence in Japan including free office space and the consultation by professional advisors such as visa and taxation. For further information, please visit [www.jetro.go.jp/en/invest](http://www.jetro.go.jp/en/invest)

If you are thinking of Japan as the invest destination, the government of Japan would like to extend the maximum support we can in tandem with local governments and JETRO.

## More information about the process of investing in our economy

Japan External Trade Organization (JETRO) : [www.jetro.go.jp](http://www.jetro.go.jp)

## Investment protection

### Protection of property rights and conditions for expropriation

Japan provides fair and equitable treatment and full and constant protection and security to all foreign investments and investors. Any exceptional cases of expropriation or nationalization of foreign investments or any measure tantamount to expropriation or nationalization (hereinafter referred to as "expropriation") may only be: (a) for a public purpose; (b) in a non-discriminatory manner; (c) upon payment of prompt, adequate and effective compensation; and (d) in accordance with due process of law. Compensation shall be equivalent to the fair market value of the expropriated investments when the recognition of project was notified. Investors affected have a right of access to the courts of justice or the administrative authorities.

Land Expropriation Act provided for the necessary conditions, procedures and compensation to coordinate between promotion of public benefit and the right of private property, and thereby to make a contribution to the proper and reasonable utilization of the country's land. Land Expropriation Act was applied to Japanese and foreigners indiscriminately.

## More information

N/A

## Protection of IPRs

### Industrial Property

Japan protects technology, designs and trademarks under four industrial property laws: the Patent Law, Utility Model Law, Design Law and Trademark Law. Furthermore, Japan protects well-known trademarks which have goodwill under the Unfair Competition Prevention Law.

Japan is a member of major intellectual property agreements, such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Convention Establishing the World Intellectual Property Organization (WIPO), the Paris Convention for the Protection of Industrial Property, the Trademark Law Treaty, the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, the Patent Cooperation Treaty and the Budapest Treaty on the International Recognition of Deposit of Microorganisms for the Purposes of Patent Procedure. Foreign right holders are generally given the same protection as Japanese right holders under these laws.

### Copyright

In 1970, The Copyright Law was comprehensively revised. The law has been

amended almost every year since due inter alia to technological progress and the conclusion of various treaties. In addition, Japan became a Party to the following international agreements (with the year of accession in brackets):

- \* Convention Establishing the WIPO (1975);
- \* the Paris Act of the Berne Convention (1975);
- \* the Paris Act of the Universal Copyright Convention (1977);
- \* the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms ["Phonogram Convention"] (1978);
- \* the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations [Rome Convention] (1989);
- \* the TRIPS Agreement (1994);
- \* the WIPO Copyright Treaty (2000); and
- \* the WIPO Performances and Phonograms Treaty (2002).

Thus, foreigners' copyrights and related rights are protected in the same way as those of Japanese in general.

### Layout-designs (topographies) of integrated circuits

The Law Concerning the Semiconductor Integrated Layout was enacted in 1985 to protect the intellectual property rights of circuit layouts of semiconductor integrated circuits. The same protection applies to foreigners as well as Japanese under the law.

### Trade Secrets

Japan permits claims for damages and the right to request an injunction against the act of unfair acquisition, using or disclosing of trade secrets through the Unfair Competition Prevention Law. This Law gives the same protection to foreigners as Japanese.

## More information

Japan Patent Office : <http://www.jpo.go.jp/index.htm>

Agency for Cultural Affairs : <http://www.bunka.go.jp/english/index.html>

## Flow of funds

In Japan, the exchange rate is floated, with the market determining the price.

**Japan**

And if managed, under what circumstances or purposes does your government/central bank intervene?

**N/A**

Are there any restrictions on the repatriation of funds related to a foreign investment (e.g. profits, dividends, royalties, loan payments)?

**All payments relating to investments of an investor may be freely transferred into and out of Japan without delay. (In exceptional cases, a transfer may be delayed or prevented through the equitable, non-discriminatory and good faith application of its laws. Japan also reserves the right to delay or prevent transfers in the event of serious balance-of-payments and external financial difficulties or threat thereof, etc.)**

**Mechanisms to review decisions, and settle disputes**

**In the case of suspending or modifying a prior notification of FDI, the Minister of Finance and the competent Minister(s) in charge of the industry concerned must hear the opinion of the "Council on Customs, Tariff, Foreign Exchange and Other Transactions".**

What, if any, mechanism do you have for foreign investors to settle disputes?

**For settlement of disputes associated with investment in Japan, foreign investors have access to the same courts and tribunals as domestic investors.**

**ICSID**

**Japan signed the ICSID convention in 1965. In addition, foreign investors have access to a range of alternative dispute settlement mechanisms such as international arbitration, etc.**

**The Government of Japan has not been involved in any cases both ISDS and SIDS relating investment issues in Japan.**

**More information**

**Japan has established a regular consultation and dialogue mechanism in its EPAs, BITs and other frameworks with some of its counterparts.**

**Especially for EPAs and BITs, Japan has established "Improvement of Business Environment" mechanism with some of its counterparts.**

**With such a mechanism, industry and Government can work together to improve the business environment and discuss investment related matters.**

**Investors collectively can raise issues at stake and show their priorities directly to the policy makers in a relatively easier way so that host economies can identify and address these issues more effectively.**

**International investment agreements**

With;

**Bangladesh; Brunei Darussalam; Cambodia; Chile; China, People's Republic of; Egypt; Hong Kong, China; Indonesia; Korea, Republic of; Lao, People's Democ. Rep.; Malaysia; Mexico; Mongolia; Pakistan; Peru; Philippines; The Russian Federation; Singapore; Sri Lanka (ex-Ceilan); Switzerland; Thailand; Turkey; Uzbekistan; Viet Nam;**

Please provide a brief description of these IIAs, or your IIAs in general.

**While Japan already takes an open and positive stance to foreign investment, to simply and reduce barriers to cross-border investment, Japan has concluded fifteen BITs and nine EPAs. Japan is also at present under negotiations or preparing for negotiations with more than 10 countries.**

## Japan

While the detail of these agreements varies, there are several common conditions in recent agreements as follows.

Preamble, Definitions, National Treatment, Most-Favored-Nation Treatment, General Treatment, Access to the Courts of Justice, Prohibition of Performance Requirements, Reservations and Exceptions, Transparency, Public Comments Procedures, Measures against Corruption, Entry, Sojourn and Residence, Expropriation and Compensation, Protection from Strife, Subrogation, Transfers, Settlement of Investment Disputes between the Contracting Parties, Settlement of Investment Disputes between a Contracting Party and an Investor of the Other Contracting Party, General and Security Exceptions, Temporary Safeguard Measures, Prudential Measures, Intellectual Property Rights, Taxation, Joint Committee, Environmental Measures, Denial of Benefits, Final Provisions

### More information

N/A

## Movement of persons

### Treatment of foreign nations or personnel of foreign firms

Japan recognizes that human resources play a substantial role as a driving force in industrial growth. Securing quality personnel is essential to running a successful business. Facilitating the resident-eligibility clearance for quality foreign managers, researchers and engineers is vital for the promotion of inward FDI into Japan. Furthermore, it is also important to create a comfortable living environment for foreign professionals and their families in Japan. This requires improvement in education, medical services and pension systems. In this context, Japan is carrying out various measures such as further improving the system related to entry and sojourn of foreign nationals.

Japan issues Working Visas for foreign nationals for certain statuses of residence. "Investor/Business Manager" and "Intra-company Transferee" are examples of main types of statuses of residence related to inbound investments for Japan.

As a basic rule, a visa must be applied for at the Japanese Embassy or Consulate closest to the applicant's place of residence. Regarding visas other than "Temporary Visitor" visas, it is recommended that the applicant first obtain a Certificate of Eligibility at a local immigration office in Japan. (One may apply by a proxy.) This document is required to speed visa issuance and obviates the need to supply various documents certifying the purpose of visit.

### More information

Ministry of Foreign Affairs: [http://www.mofa.go.jp/j\\_info/visit/visa/index.html](http://www.mofa.go.jp/j_info/visit/visa/index.html)

## Taxation

### Taxation of foreign nationals and foreign firms

#### Company profits

A Japanese resident company is currently subject to tax at a rate of 30 per cent of its taxable income. Taxable income is assessed on the basis of assessable business income less allowable business deductions. A company is resident in Japan for income tax purposes if it is incorporated in Japan.

A non-resident company is taxed on Japanese-source income. A non-resident company is subject to normal Japanese corporation tax under the same rules as a resident company if it is engaged in trade or business in Japan through permanent establishment. A non-resident company not having permanent establishment in Japan is not taxed on business profits.

#### Personal income/profits

A non-resident is taxed comprehensively on Japanese-source income if he is engaged in trade or business in Japan through permanent establishment. On the other hand, a non-resident without permanent establishment in Japan is taxed separately on Japanese-source income.

## Japan

**Some Japanese-source income paid to a non-resident company or a non-resident is subject to withholding tax at a fixed rate (there are some exceptions).**

### **Repatriation of profits**

**Repatriation of profits can generally be undertaken at any time as there are no foreign exchange controls on such repatriation. Dividends paid to foreign shareholders are subject to withholding tax (there are some exceptions).**

Is the basis for taxation economy or global? If the basis for taxing is global, with whom do you have tax treaties?

**Japanese tax system imposes tax on a world-wide basis.**

**Japan has Double Tax Conventions with 59 economies (August 1st 2010).**

### **More information**

For further information see;

**(Ministry of Finance)**

<http://www.mof.go.jp/english/index.htm>.

**(National Tax Agency)**

[http://www.nta.go.jp/foreign\\_language/index.htm](http://www.nta.go.jp/foreign_language/index.htm).