

Japan

Legal Provisions

Compiled by:

Swiss Business Hub Japan

Tokyo, March 2015

GENERAL REMARKS

Over the past years, Japan implemented certain deregulation programs and progress has been made in several sectors, especially in the fields of pharmaceuticals and financial services.

However, several areas including agriculture, health, construction and telecommunications remain heavily regulated. Respective imports therefore require approval/registration by the competent authorities. Procedures to obtain them can be time-consuming and sometimes still lack transparency and conformity with global standards.

In order to strengthen the economic relations between the two countries, Switzerland and Japan signed a Free Trade Agreement in 2009.

<http://www.seco.admin.ch/themen/00513/00586/02864/03338/index.html?lang=en>

<http://www.mofa.go.jp/policy/economy/fta/switzerland.html>

Further to the FTA, there are the following agreements between Switzerland and Japan:

- Open Skies Agreement: 2014
- Social Security Agreement: 2012
http://www.mofa.go.jp/policy/treaty/submit/session177/pdfs/agree-10_1.pdf
- Double Taxation Agreement: 1971, Amending Protocol in force since 2012
http://www.mofa.go.jp/region/europe/switzerland/pdfs/tax_1005.pdf
- Science & Technology Agreement: 2007
http://www.mofa.go.jp/announce/announce/2007/7/1174453_830.html

- Treaty of Amity and Trade: 1864

Furthermore, the competent Swiss and Japanese authorities regularly hold bilateral economic consultations. Their aim is to discuss issues of common interest including those pertaining to regulatory reform.

In this context, Swiss companies and their Japanese partners are invited to notify the Swiss Business Hub Japan at the Embassy of Switzerland in Japan of specific problems in entering and/or operating in the Japanese market in order to find optimal solutions.

CUSTOMS

Import clearance formalities start with filing an import declaration and end with receiving an import permit, paying customs duty and excise tax. Japan Customs provides information related to customs procedure:

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

Import of narcotic drugs, firearms, pornography, counterfeit bank notes/coins and goods that violate intellectual property laws is prohibited. Additionally, a number of products such as agricultural products, pharmaceuticals, chemicals etc. undergo some form of import control and require import licenses or prior confirmation.

Japan Customs provides information on prohibited articles and regulated items by law:

<http://www.customs.go.jp/english/summary/prohibit.htm>

IMPORT AND EXPORT REGULATIONS

Certain goods such as hazardous materials, animals, plants, perishables and in some cases articles of high value require an import license.

Some products are restricted as provided by law and regulations. Import restricted products are goods that may have a negative effect on the Japanese industry, public health and safety, etc, e.g. chemicals, medical devices, food items, cosmetics, etc. Many regulations also apply to packaging, labelling, etc. An import approval, certification or registration for the product, importer and sometimes also for the overseas manufacturer may be required.

Relevant laws are

- Customs Law
- Foreign Exchange and Foreign Trade Control Law

- Law Concerning Wildlife Protection and Hunting
- Firearms and Swords Possession Control Law
- Poisonous and Harmful Substance Control Law
- Pharmaceutical Affairs Law
- Fertilizer Control Law
- Law Concerning Sugar Price Stabilization
- Explosive Control Law
- Law Concerning Screening of Chemical Substances and Regulations on their Manufacture, etc.
- High Pressure Gas Safety Law
- Food Sanitation Law
- Plant Quarantine Law
- Domestic Animal Infectious Control Law
- Rabies Prevention Law
- Cannabis Control Law
- Stimulant Drug Control Law
- Narcotics and Psychotropics Control Law
- Opium Law

For further information, refer to the website of the Japan Customs, Import Procedures, <http://www.customs.go.jp/english/summary/import.htm> and

The website of JETRO, Japan External Trade Organization, Standards and Regulations: <http://www.jetro.go.jp/en/reports/regulations/>

The Swiss Business Hub Japan will provide local assistance in obtaining detailed information on the regulatory environment for your specific project. Contact tok.sbhjapan@eda.admin.ch.

CURRENCY REGULATIONS

There is no restriction on the total amount of Japanese or foreign currency, checks (including traveler's checks), promissory notes, and securities that may be brought into or taken out of Japan. However, if the value of above mentioned means of payment exceeds Yen 1'000'000 or its equivalent, or precious metal (gold of more than 90% purity) over 1 kg of total weight are to be exported, it has to be reported to the Customs. For further information please visit the homepage of Japan Customs.

See: <http://www.customs.go.jp/english/summary/passenger.htm>

REGISTRATION PROCEDURE FOR PRODUCTS

<https://www.jetro.go.jp/en/reports/regulations/>

Contact the Swiss Business Hub Japan to obtain information on the registration procedure for your specific product: tok.sbhjapan@eda.admin.ch

STANDARDS, TECHNICAL RULES, LABELLING REGULATIONS

As mentioned under **Import and export regulations**, specific import regulations are in force for a good number of products. Regulations apply not only to the product itself, but also to packaging, labeling, testing, storage and its importer/distributor's qualification. The following major laws and regulations are to be consulted:

Food Sanitation Law	(for food, food additives, food packaging materials, food processing machinery etc.)
Pharmaceutical Affairs Law	(for pharmaceuticals, cosmetics, medical equipment/devices etc.)
Electrical Appliance and Material Safety Law	(for electric products including electric medical devices etc.)
Measurement Law	(for measuring instruments etc.)
Consumer Product Safety Act	(for furniture, cooking appliances etc.)
Gas Utility Industry Law	(for kitchen ware etc.)
Building Standard Law	(construction materials, fittings etc.)

The most widely used voluntary mark is **JIS** or the Japan Industrial Standards. JIS are national standards established for the purpose of ensuring the quality of some 8'000 industrial products other than pharmaceuticals, chemicals and agricultural as well as other products covered by the JAS standards (see below). Japan is working on harmonizing the JIS standards with international standards such as ISO.

Another major voluntary mark is the Japan Agricultural Standards, **JAS**. JAS apply to processed foods, beverages, livestock products, oils and fats, forest products and processed goods such as plywood, lumber and timber etc.

In the area of organic food, Ministry of Agriculture, Forestry & Fisheries (MAFF) established a new JAS labeling system that allows "organic" labeling only if production and products were duly

inspected and certified. The Swiss Federal Office of Agriculture and MAFF have reached a bilateral equivalency agreement. Under this agreement, Swiss certification bodies will be able to apply for registration as "Registered Foreign Certification Organizations". This will allow them to certify Swiss organic food manufacturers or production process managers who in turn can label their products with the "Organic JAS-mark".

For further information on Japanese standards, regulations and labeling for household goods please refer to "Household Goods Quality Labeling Law Handbook" published by the Consumer Affairs Agency and METI:

http://www.caa.go.jp/hinpyo/pdf_data/handbook_e.pdf

For JAS Organic Products please refer to "Overview of the Organic Japanese Agricultural Standard System", MAFF

<http://www.maff.go.jp/e/jas/specific/pdf/org01.pdf>

Laws/ordinances and amendments concerning import standards and regulations can be viewed as PDF-formats from the website of JETRO on "Section 2 Handbooks for Import Regulations":

<http://www.jetro.go.jp/en/reports/regulations/>

TAXES

The Japanese consumption tax is levied on the sale and lease of assets and on the rendering of services by businesses in Japan, as well as on imports. The current rate of consumption tax is 8 percent.

For further information on Japanese taxes, please refer to the "Comprehensive Handbook of Japanese Taxes 2010" published by the Ministry of Finance, available online at:

http://www.mof.go.jp/english/tax_policy/publication/taxes2010e/index.htm

Information on taxes on income, taxes on property such as license tax, excise taxes such as liquor tax as well as international taxation information can be viewed.

"Exit tax" has been enacted and will be effective from 1 July 2015. For further information, please refer to the Individual income taxation at:

http://www.mof.go.jp/english/tax_policy/tax_reform/fy2015/tax2015a.pdf .

COMMERCIAL CODE

The Japanese Commercial Code deals with the creation and operation of businesses. The Corporate Law became effective in May 2006.

The key features of the new Corporate Law are the following

- Relaxed requirements for establishing new corporations
- Relaxed requirements for M&A
- Relaxation of distribution of dividends
- Relaxed requirements for corporate reorganizations

The new Corporate Law should enable to stimulate the establishments of new corporations, to allow more flexible corporate management structures and strengthen corporate governance.

SETTING UP COMPANIES

Laws and regulations regarding setting up business in Japan are explained in detail on the following website of JETRO http://www.jetro.go.jp/en/invest/setting_up/

Section 1. Incorporating Your Business

- 1.1 Types of operation in Japan
- 1.2 Comparison of types of business operation
- 1.3 Procedures for registering establishment
- 1.4 Information listed in articles of incorporation
- 1.5 Certificate on registered company information and company seal registration certificate
- 1.6 Notifications required after registration
- 1.7 Closure of branch offices or subsidiary companies

Section 2. Visas and Status of Residence

- 2.1 Entry procedures
- 2.2 Relation between visa and status of residence
- 2.3 Process from acquisition of Certificate of Eligibility to acquisition of visa
- 2.4 Types of working statuses
- 2.5 Temporary visitor visa and status
- 2.6 Reciprocal visa exemptions for temporary visitor
- 2.7 Resident card
- 2.8 Re-entry permission
- 2.9 Family members accompanying working foreign nationals

- 2.10 Extension of period of stay and change of status of residence
- 2.11 Points-based preferential immigration treatment for highly skilled foreign professionals

Section 3. Taxes in Japan

- 3.1 Overview of Japanese tax system for investment in Japan
- 3.2 Domestic-sourced income
- 3.3 Overview of corporate income taxes (corporate tax, corporate inhabitant tax, enterprise tax)
- 3.4 Overview of withholding income tax
- 3.5 Tax treaties
- 3.6 Overview of consumption tax
- 3.7 Overview of personal tax system
- 3.8 Other principal taxes
- 3.9 Other principal corporate taxation regarding international transactions

Section 4. Human Resource Management

- 4.1 Application of laws
- 4.2 Recruitment
- 4.3 Labour contracts
- 4.4 Wages
- 4.5 Legislation on working hours, breaks and days off
- 4.6 Work rules
- 4.7 Safety and hygiene
- 4.8 Resignation and dismissal
- 4.9 Japan's social security system

Section 5. Trademark and Design Protection Systems

- 5.1 Legislation on trademark and design
- 5.2 Japan's trademark system
- 5.3 Validity and term of trademark registration
- 5.4 Cancellation of trademarks
- 5.5 The registration process
- 5.6 International registration of trademarks
- 5.7 Protection of designs
- 5.8 The registration process
- 5.9 International Registration of Industrial Designs

JOINT-VENTURE-OPPORTUNITIES

Advantages of joint ventures include access to market information, a market presence, a better chance to technology and product development, access to a distribution system and customers.

Case studies of foreign companies that expanded business in Japan (not only through JV) are available online at <http://www.jetro.go.jp/en/invest/newsroom/businesses/> (Investment News, JETRO).

NATIONAL STRATEGIC SPECIAL ZONES IN TOKYO

Six areas, including Tokyo are designated as the National Strategic Special Zones.

Tokyo is designated to attract foreign business by the national government based on the perspectives of boosting the international competitiveness of industry and promoting the creation of centres of international economic activities by giving priority to advancing structural reform of the economic system. More information on Tokyo's Special Economic Zones is available at: http://www.seisakukikaku.metro.tokyo.jp/invest_tokyo/

PROMOTION OF INVESTMENT

Foreign firms investing in Japan that have obtained special certification are eligible for special tax incentives and loan guarantees. Moreover, they may also qualify for low-interest loans from governmental financial institutions such as the Development Bank of Japan http://www.dbj.jp/en/service/finance/finance_flow/index.html.

Japan External Trade Organization JETRO <http://www.jetro.go.jp/en/invest/> provides various information services such as seminars, publications and personal advice. JETRO also maintains the Invest Japan Business Support Center (IBSC) in six major cities of Japan. IBSC have incubation offices that can be used by qualified foreign companies free of charge and are staffed by specialized advisors. For further information:

<http://www.jetro.go.jp/en/invest/investmentservices/ibsc/>

or contact:

JETRO Genève

80, rue de Lausanne

1202 Genève

<http://www.jetro.go.jp/switzerland/>

Tel: (+41) 22 732 13 04

Fax: (+41) 22 732 07 72

In addition, many local governments provide foreign firms with incentives such as local tax exemptions, subsidies, loan programs etc. <http://www.jetro.go.jp/en/invest/region/>

In cooperation with JETRO, the ministries in the Japanese government also provide the same services for foreign investors under the name of "INVEST JAPAN":

http://www.invest-japan.go.jp/en_index.html

ENTRY CONDITIONS, WORK PERMITS, RESIDENCE PERMITS, LABOUR LAW

A Swiss citizen may submit a visa application together with required documents to the Japanese Embassy in Bern or the Consulate in Geneva. A Short-Term Stay Visa is available for preparatory work such as procuring office space and employing staff etc. so long as no business activities are engaged in. For a longer stay, a Certificate of Eligibility is to be obtained in advance which is issued by the immigration bureau in Japan and is to be attached to the visa application.

For further information:

Japanische Botschaft in der Schweiz

Engestrasse 53

3012 Bern

Tel.: (+41) 31 300 22 22

Fax: (+41) 31 300 22 56

<http://www.ch.emb-japan.go.jp/de/visareise.html>

consularsection@br.mofa.go.jp

or

Consulat du Japon à Genève

82 Rue de Lausanne

1202 Genève

Tel: (+41) 22 716 99 00

Fax : (+41) 22 716 99 01

<http://www.geneve.ch.emb-japan.go.jp/>

consulate@br.mofa.go.jp

Residents in Geneva, Vaud, Valais or Ticino are requested to contact the Consulate General of Japan in Geneva.

SOURCES OF INFORMATION AND LINKS

EU Market Access and Trade Barriers Database, European Union

http://madb.europa.eu/madb_barriers/barriers_select.htm

(Choose “by country”, then “Japan”)

Customs and Tariff Bureau, Ministry of Finance

http://www.mof.go.jp/english/customs_tariff/index.html

Import regulations and procedures, JETRO

<http://www.jetro.go.jp/en/reports/regulations/>

Japan Industrial Standards Committee

<http://www.jisc.go.jp/eng/index.html>

Investing in Japan, JETRO

Information on establishing business in Japan such as information on regions, attractive sectors, Japan's investment climate, taxation, corporate law, labour issues, cost simulation, surveys & statistics and JETRO services etc.

<http://www.jetro.go.jp/en/invest/>

OTHER USEFUL WEBSITES

Japanese Law Links

<http://www.japaneselawtranslation.go.jp/?re=02>

World Legal Information Institute, Japan

<http://www.worldlii.org/catalog/234.html>

Senrei

Summaries of important recent constitutional, civil and commercial law cases from Japan

<http://www.senrei.com/>

Date: March, 2015

Author: Swiss Business Hub Japan
Export Promotion

Author's address: Swiss Business Hub Japan
c/o Embassy of Switzerland in Japan
5-9-12 Minami Azabu, Minato-ku
Tokyo 106-8589
Japan
Phone: (+81) 3 5449 8400
Fax: (+81) 3 3473 6090
e-mail : tok.sbhjapan@eda.admin.ch
homepage: www.s-ge.com