

JAPAN-MALAYSIA ECONOMIC PARTNERSHIP AGREEMENT (JMEPA)

JMEPA was signed on December 13, 2005 and entered into force on July 13, 2006.

A. Tariff Reduction and Elimination Modality

Japan and Malaysia will progressively reduce or eliminate tariffs on 97% of all products within 10 years from the entry into force of the Agreement. Both sides will immediately eliminate tariffs on textile and clothing, agriculture and wood products. Malaysia will progressively eliminate tariffs on rubber, plastics, paper, and downstream paper products over 6-8 years. With respect to chemicals, iron and steel, paper products and automotive parts and components, Malaysia will progressively eliminate or reduce tariff over 10 years. In return, Japan has granted tariff free treatment on 6,613 industrial products, forestry products and tropical fruits upon entry into force. Malaysia will progressively eliminate or reduce tariffs on other products within 10 years. For certain products, such as automotive products, both sides agreed to continue progressive liberalization after the entry into force of JMEPA.

Tariff Reduction Modality: HS 84, 85, 87

Japan eliminated all tariffs on products under HS Chapters 84, 85 and 87 upon the entry into force of the Agreement. Malaysia's tariff modality for HS 84, 85 and 87 under JMEPA provides for both immediate tariff elimination and staged reduction as follows.

| Chapter 84 | Modality | Number of Tariff Lines |
|-------------------|---|-------------------------------|
| A | Tariffs eliminated on entry into force (EIF). | 274 |
| B5 | Tariffs reduced to 0% in 6 equal annual instalments from the base rate to free. ¹ | 16 |
| B6 | Tariffs reduced to 0% in 7 equal annual instalments from the base rate to free. | 3 |
| B7 | Tariffs reduced to 0% in 8 equal annual instalments from the base rate to free. | 107 |
| B10 | Tariffs reduced to 0% in 11 equal annual instalments from the base rate to free. | 1 |
| P (Note 6) | Tariffs shall be reduced to: 1) 20% as from EIF. 2) 10% as from the fourth year. 3) Free as from the sixth year. | 1 |
| P (Note 12) | Tariffs shall be eliminated according to: 1) The base rate as from EIF. 2) The CEPT rate ² applicable on the first day of 2008 or not more than 5%, whichever is less, as from January 1, 2008. 3) The CEPT rate applicable on the first day of 2009 or not more than 5%, whichever is less, as from January 1, 2009. 4) Free as from January 1, 2010. | 7 |

¹ The annual tariff reduction shall take place on January 1 of each year for Malaysia and April 1 of each year for Japan.

² The CEPT rate means the rate of customs duty applied by Malaysia under the Agreement of the Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area and all related Agreement Protocols.

| Chapter 85 | Modality | Number of Tariff Lines |
|------------|--|------------------------|
| A | Tariffs eliminated on EIF. | 187 |
| B5 | Tariffs reduced to 0% in 6 equal annual instalments from the base rate to free. | 11 |
| B7 | Tariffs reduced to 0% in 8 equal annual instalments from the base rate to free. | 161 |
| B10 | Tariffs reduced to 0% in 11 equal annual instalments from the base rate to free. | 7 |
| P(Note 2) | Tariffs reduced in 11 equal annual instalments from the base rate to 20%. | 1 |

| Chapter 87 | Modality | Number of Tariff Lines |
|-------------|---|------------------------|
| A | Tariffs eliminated on EIF. | 105 |
| B4* | Tariffs reduced in equal annual instalments from the base rate to free according to: <ol style="list-style-type: none"> 1) The reduction for the first year shall take place on EIF; 2) The subsequent annual reductions shall take place on January 1 of each following year. 3) The final reduction shall take place on January 1, 2010. | 47 |
| B5 | Tariffs reduced to 0% in 6 equal annual instalments from the base rate to free. | 25 |
| B7 | Tariffs reduced to 0% in 8 equal annual instalments from the base rate to free. | 75 |
| B9* | Tariffs reduced in equal annual instalments from the base rate to free according to: <ol style="list-style-type: none"> 1) The reduction for the first year shall take place on EIF; 2) The subsequent annual reductions shall take place on January 1 of each following year 3) The final reduction shall take place on January 1, 2015. | 88 |
| P (Note 11) | Tariffs shall be reduced to: <ol style="list-style-type: none"> 1) 35% as from EIF. 2) 20% as from January 1, 2007. 3) The CEPT rate applicable on the first day of 2008 or not more than 5%, whichever is less as from January 1, 2008. 4) The CEPT rate applicable on the first day of 2009 or not more than 5%, whichever is less as from January 1, 2009. 5) Free as from January 1, 2010. | 14 |
| P(Note 12) | Tariffs shall be eliminated according to: <ol style="list-style-type: none"> 1) The base rate as from EIF. 2) The CEPT rate applicable on the first day of 2008 or not more than 5%, whichever is less, as from January 1, 2008. 3) The CEPT rate applicable on the first day of 2009 or not more than 5%, whichever is | 29 |

| Chapter 87 | Modality | Number of Tariff Lines |
|------------|--|------------------------|
| | less, as from January 1, 2009. 4) Free as from January 1, 2010. | |

B. Rules of Origin

General Rules

JMEPA follows a product specific rules of origin (PSR) approach. For products to be eligible for duty-free access into the other market, they must be: (i) wholly obtained; (ii) include a change in tariff classification (CTC); and (iii) have a qualifying value content (QVC) of no less than 40% of the free-on-board price (FOB).³ The rules of origin are based on the 2002 Harmonized System.

The calculation of qualifying local value content is as follows:

$$\text{QVC (\%)} = \frac{\text{FOB} - \text{Value of Non-originating materials}}{\text{FOB}} \times 100$$

A summary of the rules of origin under JMEPA is as follows:

| Method of Determining Origin | Unique Origin Criteria |
|---|------------------------|
| 1. Wholly obtained or produced 2. Calculation of value content <u>Most products</u> - Allowable cost to manufacture is not less than 40% FOB of the good. <u>Certain products</u> - A stricter QVC ranging from 40-60% applies to certain products, including HS 87 products 3. Change in tariff classification (CTC) | None |

The PSRs, provided in Annex 2 of the Agreement, for goods under HS Chapters 84 and 85 include the choice of either a 40% QVC or a CTC at the 6-digit level. For items under Chapter 87, a stricter QVC of 50% or 60% applies.

Rules on Accumulation of Inputs

An originating good of a Party, which is used as a material in the production of a good in the other Party, may be considered as an originating material of the other Party.

De Minimis

JMEPA establishes a 10% *de minimis* threshold for the value of non-originating materials used in a good's production that do not undergo the required CTC in the case of goods classified under HS Chapters 28 to 49 and HS 64 to 97. The *de minimis* threshold for goods classified under HS Chapters 50 to 63 is 7% of the weight of the goods.

³ Free-on-Board Price (FOB) = Total Cost of Raw Materials + Direct Labor Cost + Direct Overheads + Profits + Inland Transportation Costs.

C. Certification Rules

General Description

JMEPA adopts a government-certification system only. Preferential duty claims under JMEPA are based on a certificate of origin (CO), which is valid for 12 months from the date of issue. The CO applies to a single shipment of goods only and is known as Form MJEPA. JMEPA details the CO procedures in Article 40 of Chapter 3 of the Agreement, Annex 3 of the Agreement and in greater detail in the Operational Procedures, which also includes a sample CO form. JMEPA does not require a CO for shipments valued not more than USD 200.

Back-to-Back Certificate of Origin

Not applicable to JMEPA.

Third-party Invoicing

In accordance with Rule 7 of the Operational Procedures, the Customs Authority of the importing Party may accept a CO in cases where the sales invoice is issued either by a company located in a third country or by an exporter for the account of that company, provided that the goods meet the rules of origin requirements.

Advance Rulings

Article 41 of JMEPA provides a basic description for advance rulings. The Agreement establishes that each Party shall endeavor to issue a written advance ruling as to whether a good to be imported qualifies as an originating good. Details regarding timeframe are not provided.

Authorized Bodies

The CO issuing authorities are (i) the Japanese Ministry of Economy, Trade and Industry (METI), specifically its Origin Certification Policy Office of the Trade Administration Division under the Trade and Economic Cooperation Bureau, and (ii) the Malaysian Ministry of International Trade and Industry (MITI), specifically its Trade Services Division.

Post-Exportation Examination

The importing customs authority may request information to verify the origin of a good on the basis of the CO, provided that such request is made to the competent authority of the exporting Party. The competent authority of the exporting Party must provide the information within three months of the request. Where the importing customs authority considers as necessary to require further information, the competent authority of the exporting Party is required to provide the information within two months from the date of receipt of the request for additional information. If the importing customs authority is not satisfied, it can take steps to verify the eligibility of goods by: (i) collecting information on visits to the factory or premises of the manufacturer or exporter of the goods; and (ii) requesting for records relating to the production, manufacture or export of the goods from the exporting Party's competent authority. The importing customs authority must submit a written request to the exporting Party at least 40 days in advance of the proposed date of the visit.

Document Retention Requirements

Exporters and producers must maintain records relating to the goods origins for at least five years from the CO issuance date.

D. Relevant FTA Provisions

- Legal Text:
http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/malaysia/kyotei/pdfs/wabun.pdf (Japanese)
<http://www.mofa.go.jp/region/asia-paci/malaysia/epa/content.pdf> (English)
- Tariff Schedules, Annex 1
http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/malaysia/kyotei/pdfs/fuzoku01.pdf (Japanese)
<http://www.mofa.go.jp/region/asia-paci/malaysia/epa/annex1.pdf> (English)
- Product-Specific Rules of Origin, Annex 2
http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/malaysia/kyotei/pdfs/fuzoku02.pdf (Japanese)
<http://www.mofa.go.jp/region/asia-paci/malaysia/epa/annex2.pdf> (English)
- Operational Procedures, including Sample Certificate of Origin
<http://www.mofa.go.jp/region/asia-paci/malaysia/epa/op.pdf> (English)