

JAPAN-VIETNAM ECONOMIC PARTNERSHIP AGREEMENT (JVEPA)

The JVEPA was signed on December 25, 2008 and entered into force on October 1, 2009.

A. Tariff Reduction and Elimination Modality

Japan eliminated 79% of committed tariff lines and Vietnam eliminated 29% of committed tariff lines upon entry into force of the Agreement. The JVEPA provides for greater trade liberalization than the ASEAN-Japan Comprehensive Economic Partnership Agreement (AJCEP).

JVEPA will liberalize 92% of bilateral trade over the next 10 years. Vietnam will eliminate tariffs on 93% of its imports from Japan within 16 years. Of this figure, an estimated 95% of Japan's imports from Vietnam and 88% of Vietnam's imports from Japan (measured by trade volume) will face zero duties.

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. Vietnam's tariff modality for HS 84, 85 and 87 under JVEPA 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 (October 1, 2009) | 707 |
| B2 | Tariffs reduced to 0% in 3 equal instalments (<i>i.e.</i> 2012) from base rate | 13 |
| B3 | Tariffs reduced to 0% in 4 equal instalments (<i>i.e.</i> 2013) from base rate | 15 |
| B4 | Tariffs reduced to 0% in 5 equal instalments (<i>i.e.</i> 2014) from base rate | 28 |
| B5 | Tariffs reduced to 0% in 6 equal instalments (<i>i.e.</i> 2015) from base rate | 4 |
| B6 | Tariffs reduced to 0% in 7 equal instalments (<i>i.e.</i> 2016) from base rate | 14 |
| B7 | Tariffs reduced to 0% in 8 equal instalments (<i>i.e.</i> 2017) from base rate | 14 |
| B8 | Tariffs reduced to 0% in 9 equal instalments (<i>i.e.</i> 2018) from base rate | 50 |
| B10 | Tariffs reduced to 0% in 11 equal instalments (<i>i.e.</i> 2020) from base rate | 298 |
| B10* | Tariffs eliminated from the first day of the 11th year. | 12 |
| B15 | Tariffs reduced to 0% in 16 equal instalments (<i>i.e.</i> 2025) from base rate | 60 |
| B15* | Tariffs eliminated from the first day of the 16th year. | 2 |
| B16 | Tariffs reduced to 0% in 17 equal instalments (<i>i.e.</i> 2026) from base rate | 42 |
| C | Base rate applies from entry into force of the agreement | 36 |
| X | Excluded from tariff commitments | 74 |

| Chapter 85 | Modality | Number of Tariff Lines |
|------------|--|------------------------|
| A | Tariffs eliminated on entry into force (October 1, 2009) | 222 |
| B2 | Tariffs reduced to 0% in 3 equal instalments (<i>i.e.</i> 2012) from base rate | 36 |
| B3 | Tariffs reduced to 0% in 4 equal instalments (<i>i.e.</i> 2013) from base rate | 8 |
| B4 | Tariffs reduced to 0% in 5 equal instalments (<i>i.e.</i> 2014) from base rate | 29 |
| B5 | Tariffs reduced to 0% in 6 equal instalments (<i>i.e.</i> 2015) from base rate | 51 |
| B6 | Tariffs reduced to 0% in 7 equal instalments (<i>i.e.</i> 2016) from base rate | 3 |
| B7 | Tariffs reduced to 0% in 8 equal instalments (<i>i.e.</i> 2017) from base rate | 17 |
| B8 | Tariffs reduced to 0% in 9 equal instalments (<i>i.e.</i> 2018) from base rate | 33 |
| B10 | Tariffs reduced to 0% in 11 equal instalments (<i>i.e.</i> 2020) from base rate | 244 |
| B10* | Tariffs eliminated from the first day of the 11th year. | 4 |
| B15 | Tariffs reduced to 0% in 16 equal instalments (<i>i.e.</i> 2025) from base rate | 106 |
| C | Base rate applies from entry into force of the agreement | 24 |
| P2 | Base rate applies from entry into force of the agreement and reduced to 5% from the first day of the 18th year | 17 |

| Chapter 87 | Modality | Number of Tariff Lines |
|------------|---|------------------------|
| A | Tariffs eliminated on entry into force (October 1, 2009) | 26 |
| B5 | Tariffs reduced to 0% in 6 equal instalments (<i>i.e.</i> 2015) from base rate | 21 |
| B8 | Tariffs reduced to 0% in 9 equal instalments (<i>i.e.</i> 2018) from base rate | 7 |
| B10 | Tariffs reduced to 0% in 11 equal instalments (<i>i.e.</i> 2020) from base rate | 73 |
| B10* | Tariffs eliminated from the first day of the 11th year. | 23 |
| B12* | Tariffs eliminated from the first day of the 13th year. | 2 |
| B15 | Tariffs reduced to 0% in 16 equal instalments (<i>i.e.</i> 2025) from base rate | 13 |
| B15* | Tariffs eliminated from the first day of the 16th year. | 11 |
| C | Base rate applies from entry into force of the agreement | 55 |
| P2 | Base rate applies from entry into force of the agreement and reduced to 5% from the first day of the 18th year | 5 |
| P3 | Base rate applies from entry into force of the agreement and reduced to 50% from the first day of the 16th year | 32 |
| R1 | Base rate applies from entry into force of the agreement and subject to further negotiation in the fifth year from entry into force | 2 |
| R | Excluded from tariff commitments but subject to further | 32 |

| Chapter 87 | Modality | Number of Tariff Lines |
|------------|---|------------------------|
| | negotiation in the fifth year from entry into force | |
| X | Excluded from tariff commitments | 152 |
| * | Tariffs are determined by domestic classification and regulations | 57 |

B. Rules of Origin

General Rules

JVEPA uses a product specific approach to rules of origin, which includes a change in tariff classification (CTC) rule or qualifying local value content (LVC) rule, which is not less than 40% of the free-on-board price (FOB). JVEPA provides for the rules of origin under Chapter 3 of the Agreement and for the product specific rules (PSR) under Annex 2. The rules of origin are based on the Harmonized System as amended on January 1, 2007.

Some PSRs allows a choice between (i) LVC rule, (ii) CTC rule, (iii) specific manufacturing or processing operation, or (iv) a combination of the latter three rules. For the LVC rule, in addition to the 40% requirement, the final place of the production process must take place in the Party's territory.

The calculation of LVC is as follows:

$$\text{LVC (\%)} = \frac{\text{FOB} - \text{Value of Non - Originating Material}}{\text{FOB}} \times 100$$

For the CTC rule, while Article 26b specifies a 4-digit level CTC for non-originating materials, the Annex provides for CTCs at the 2-, 4- and 6-digit levels. The specific process requirement is applied to goods in HS Chapters 50 to 63. The PSRs for goods under HS Chapters 84, 85 and 87 are primarily the choice of either a 40% LVC or a CTC at the 6-digit level.

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

| Method of Determining Origin | Unique Origin Criteria |
|--|---|
| 1. Wholly obtained or produced 2. Product-specific based on CTC, LVC, specific processing, or a combination The LVC requirement is 40% | Specific process rules for Chapters 50 to 63 allows for processing in ASEAN member countries. |

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

JVEPA 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 change in tariff classification in the case of goods classified under most HS Chapters, including HS Chapters 84, 85 and 87. The *de minimis* percentages are 10% of the value of the good for HS Chapters 16, 19, 20, 22, 23, 28 to 49 and HS Chapters 64 to 97; 10% or 7% of the value of the goods in HS

Chapters 9, 18 and 21 as specified in Annex 2; and 10% of the weight of the good for HS Chapters 50 to 63.

C. Certification Rules

General Description

JVEPA adopts a government-certification system only. Preferential duty claims under JVEPA are based on a certificate of origin (CO), which is valid for 12 months from the date of issue. The CO applies only to a single shipment of goods. The CO is known as "Form JV." JVEPA details the CO procedures in Article 36 of Chapter 3, Annex 3 of the Agreement and in greater detail in the Implementing Regulations, which also includes a sample CO form. JVEPA does not require a CO for shipments valued at not more than USD 200 or JPY 200,000.

Back-to-Back Certificate of Origin

Not applicable to JVEPA.

Third-party Invoicing

Not applicable to JVEPA.

Advance Rulings

Not applicable to JVEPA.

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 Vietnamese Ministry of Industry and Trade (MOIT), specifically its Rules of Origin and Quality Control Division under the Import-Export Policy Department.

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 (or the exporter is requested by the competent authority) is required to provide the information within three 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 60 days in advance of the proposed date of the visit.

Document Retention Requirements

Exporters and producers must maintain records relating to a good's origin for at least three years from the CO issuance date.

D. Relevant FTA Provisions

- Legal Text:
http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/vietnam/pdfs/mokuji.pdf (Japanese)
<http://www.mofa.go.jp/region/asia-paci/vietnam/epa0812/agreement.pdf> (English)
- Tariff Schedules, Annex 1
http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/vietnam/pdfs/fuzoku01.pdf (Japanese)
<http://www.mofa.go.jp/region/asia-paci/vietnam/epa0812/annex1.pdf> (English)
- Product-Specific Rules of Origin, Annex 2
http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/vietnam/pdfs/fuzoku02.pdf (Japanese)
<http://www.mofa.go.jp/region/asia-paci/vietnam/epa0812/annex2.pdf> (English)
- Operational Certification Procedures
http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/vietnam/pdfs/fuzoku03.pdf (Japanese)
<http://www.mofa.go.jp/region/asia-paci/vietnam/epa0812/annex3.pdf> (English)
- Implementing Regulations, including Sample CO
<http://www.mofa.go.jp/region/asia-paci/vietnam/epa0910/implement.pdf> (English)