

ASEAN-JAPAN ECONOMIC PARTNERSHIP AGREEMENT (AJCEP)

AJCEP was signed on April 14, 2008 and entered into force on December 1, 2008 for Japan, Laos, Myanmar, Singapore, and Vietnam. The Agreement later took effect on January 1, 2009 for Brunei, February 1, 2009 for Malaysia, June 1, 2009 for Thailand, and December 1, 2009 for Cambodia. Indonesia and the Philippines are still in the process of completing their domestic procedures required for the implementation of AJCEP. Official sources indicate that these two remaining parties are likely to implement AJCEP in the first half of 2010.

A. Tariff Reduction and Elimination Modality

Under the Agreement, Japan agreed to eliminate tariffs on 93% of imports by value from ASEAN within 10 years from entry into force. ASEAN-6 (Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand) agreed to eliminate tariffs on 90% of imports from Japan within 10 years both in terms of value and the number of items. AJCEP provides additional benefits in terms of immediate and accelerated tariff elimination for certain products in comparison with progressive liberalization under Japan's bilateral Economic Partnership Agreements (EPA) with Brunei, Indonesia, Malaysia, Philippines, Singapore, Thailand, and Vietnam. The Agreement provides flexibilities and special and differential treatment to Cambodia, Laos and Myanmar.

Only Japan and Singapore eliminated all tariffs on products under HS Chapters 84, 85 and 87 upon the entry into force of the Agreement. The other nine Parties provide for both immediate elimination and staged reduction of tariffs according to their respective tariff schedules.

B. Rules of Origin

General Rules

The rules of origin are based on a co-equal rule approach under which exporters can choose to meet either (i) a change in tariff classification (CTC) based rule, or (ii) a regional value content (RVC) rule, unless otherwise specified in Annex 2 of the product specific rules of origin (PSR). The PSRs provide a choice of rules: (i) an RVC based rule of origin, (ii) a CTC-based rule of origin, (iii) a specific manufacturing or processing operation, or (iv) a combination of any of these. Under the RVC approach, a good shall be treated as an originating good if the good has an RVC of not less than 40% of the FOB value. The calculation of qualifying regional value content is as follows:

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

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

Method of Determining Origin	Unique Origin Criteria
1. Wholly obtained or produced 2. Calculation of RVC 3. Change in tariff classification (CTC)	For textile (HS Chapters 50-60, and 63), and garments (HS Chapters 61 and 62), two process rules are applied where exporters have to meet both CTC or RVC tests and certain processing requirements.

Rules on Accumulation of Inputs

Originating materials from any of the AJCEP Parties, if they are incorporated into a good produced in the exporting Party, may be regarded as originating materials of the exporting

Party. The Implementing Regulations stipulate the types of documentary evidence required for the issuance of a CO to prove that material accumulated in the production of a good is an originating material of a Party for the purposes of Article 29 of AJCEP. These include: (i) a declaration by the exporter or producer of the good; (ii) an invoice of the good; (iii) a copy of the CO for the material issued by the exporting Party of the material, including that issued retroactively; or (iv) any other relevant document.

De Minimis

AJCEP 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 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 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

AJCEP adopts a government-certification system only. Preferential duty claims under AJCEP 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 and is known as "Form AJ." AJCEP details certification requirements in the Operational Certification Procedures (OCP) in Annex 4 of the Agreement and the Implementing Regulations, which include a sample Form AJ. AJCEP does not require a CO for shipments valued not more than JPY 200,000 imported from Japan or USD 200 imported from ASEAN member countries.

Back-to-Back Certificate of Origin

The Issuing Authority of an intermediate Party may issue a back-to-back CO as a new CO for the originating good, if an application is made by the exporter or its authorized agent and provided that a valid original CO or its certified true copy is presented. In the case of partial export shipments, the partial export value and partial quantity is to be shown on the back-to-back CO. Rule 9 of the Implementing Regulations states that the Party issuing the back-to-back CO is required to ensure that the total quantity exported under the partial shipment does not exceed the total quantity shown in the original CO.

Third-party Invoicing

In accordance with Rule 3(d) of the Implementing Regulations, 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

Not applicable to AJCEP.

Authorized Bodies

The authorized bodies are government bodies allowed to issue COs in accordance with the laws, regulations and policies applying to that body. 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 following ASEAN authorities:

ASEAN Member	Issuing Authority
Brunei	Ministry of Foreign Affairs and Trade
Cambodia	Ministry of Commerce
Indonesia	Ministry of Trade (Directorate General of International Trade)
Laos	Ministry of Commerce
Malaysia	Ministry of International Trade and Industry (Trade Services Division)
Myanmar	Ministry of Commerce
Philippines	Bureau of Customs (Export Coordination Division)
Singapore	Singapore Customs (Documentation Specialist Branch)
Thailand	Ministry of Commerce (Department of Foreign Trade, Bureau of Trade Preference Development)
Vietnam	Ministry of Trade (Export-Import Managing 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 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 or producers must maintain records relating to the origin of a good for a period of three years from the date of CO issuance.

D. Relevant FTA Provisions

- Legal Text
http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/pdfs/ajcep_k.pdf (Japanese)
<http://www.mofa.go.jp/policy/economy/fta/asean/agreement.pdf> (English)
- Tariff Schedules, Annex 1
<http://www.mofa.go.jp/policy/economy/fta/asean/annex1.html> (English)
- Product-Specific Rules of Origin, Annex 2
<http://www.mofa.go.jp/policy/economy/fta/asean/annex2.pdf> (English)
http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/pdfs/ajcep_k2.pdf (Japanese)
- Operational Certification Procedures, Annex 4
<http://www.mofa.go.jp/policy/economy/fta/asean/annex4.pdf> (English)
http://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/pdfs/ajcep_k4.pdf (Japanese)

- Implementing Regulations and Sample Form AJ
<http://www.mofa.go.jp/policy/economy/fta/asean/implement.pdf> (English)