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ASEAN and JAPAN signed the ASEAN-JAPAN Comprehensive Economic Partnership (AJCEP) in April 2008. This agreement, which came into effect from December 1st, 2008

ASEAN JAPAN COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT

Unlike other ASEAN Free Trade Agreements with external partners, AJCEP is not a collection of many Agreements but a sole Free Trade Agreement, with contents covering many sections, including trade in goods, services, investment and economic cooperation.

Although it includes various subject matters, AJCEP fundamentally is still the traditional Free Trade Agreement, with the main containing upon liberalization of trade in goods (elimination of tariffs).

ASEAN - JAPAN

ASEAN JAPAN COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT

1. CONTENT

AJCEP primarily contains commitments to eliminate tariffs and rules of origin; as well as other commitments related to trade in goods such as the treatment principle to the goods, certain non-tariff measures, special safeguard measures, the establishment of Joint Committees to cooperate on matters related to trade in goods. issues related to technical barriers to trade (TBT), sanitary and phytosanitary (SPS)... AJCEP is expected to continue negotiating to open up services and investment but has not yet completed.

Commitment on tariff

Japan commits to the end of the road map by 2026:

- Eliminate tariffs on 96.45% of total tariff lines for products from Vietnam;

- Non-committed Japanese products are mainly agricultural products. However, Japan has eliminated tariffs for many agricultural products from Vietnam (as of 2015, eliminated taxes on 923 agricultural product lines from Vietnam, by 2019, there will be other additional 338 agricultural product lines being eliminated tax)

Vietnam commits to the end of the road map by 2026:
- Eliminate tariffs on around 88.6% of tariff lines in the Tariff;
- Nearly 100 tax lines cut to 5%;
- About 10% of the remaining tax lines are partially cut or uncommitted (completed automobiles, spare parts, electrical appliances, iron and steel, machinery and equipment...)

Commitment on Rules and Procedures of Origin

A good is considered to be AJCEP originating if the good is wholly obtained or produced in a Member State, or it meets either of the following conditions:

- Goods meeting the general origin criteria:

+ Regional Value Content (RVC): 40% minimum, or

+ HS Code Conversion (CTC): conversion at the 4-digit level (CTH – non-originating materials must be in a different HS Group from the HS Group of the finished product).

- Goods with specific rules of origin: some goods do not apply the general rules of origin, but the specific rules of origin being applicable to the such goods are specified in the List of Product-Specific Rules of Origin.

AJCEP Certificate of Origin is C/O form AJ. Currently, all AJ form COs issued by Vietnam and AJCEP members are paper C/Os. AJCEP has no provisions related to the handling of errors on C/O. Vietnam C/O issuing agency can be flexible to issue new C/O in case of errors on the basis of revocation of faulty C/O. C/O form AJ can be issued before, during or after (no more than 1 year) the time of export of the goods. AJCEP does not have a provision for Self-Certification of Origin.

Protocol Amending AJCEP

On August 1, 2020, the first Protocol to amend the ASEAN-Japan Comprehensive Economic Partnership (AJCEP) between Japan and the five members of the Association of Southeast Asian Nations (ASEAN) went into effect.

While the AJCEP was first implemented in December 2008, the first protocol amending the FTA will promote further trade and investment between Japan, Laos, Myanmar, Singapore, Thailand and Vietnam.

Cross border supply of services eased

Vietnam is scheduled to completely remove restrictions on the cross-border supply of a majority of services, including legal, accounting and auditing, taxation, engineer and integrated engineer, medical and dental, computer and related services, R&D activities in natural science, market research and management consulting, education, advertising services, and so on.

Besides, Vietnam also allows the presence of foreign entities in most of the aforementioned services, with some exceptions and specific regulations for services such as engineering, medical and dental, and incidental agriculture and manufacturing services.

For example, the Protocol allows the establishment of a 100% foreign-invested hospital with a minimum capital of 20 million USD and also allows foreign enterprises from Japan and other members of AJCEP to conduct business in engineering services.

Movement of business professionals

The movement of natural persons refers to citizens and permanent residents from any members of the AJCEP that move abroad in order to provide a commercial service.

In this protocol, Vietnam has granted a 90-day period stay for service salespersons, business persons responsible for setting up a commercial presence in Vietnam, and other foreign contractual service suppliers.

Intra-corporate transferees (managers, executives, and specialists) of foreign firms with a commercial presence in Vietnam will be granted entry and a stay permit for an initial period of three years. This may be extended, subject to the term of operation of those entities in Vietnam.

On the Japanese side, Vietnamese businesspeople can now avail of either a short-term or long-term business and investor visas. Professionals of certain fields such as legal, accounting, tax, and service suppliers that qualify can stay in Japan for up to five years. This is also extendable to their spouse and children.

Key takeaways

The protocol enables ASEAN and Japan to share the large resources available through joint collaboration to further promote the growth of both the manufacturing and service industries. Intra-party traders can also enjoy a larger sourcing base. For example, they can use raw or intermediate materials from any AJCEP members to enjoy preferential tariffs.

The amended agreement is also beneficial to Japan, as it makes it easier for Japanese companies, especially in the services sectors to establish bases in different ASEAN countries, including Vietnam, and move components and products across borders as if it were a transnational assembly chain.

For Vietnam, the AJCEP provides additional benefits in terms of immediate and accelerated elimination of duties for products and services that were not included under the VJEPA.

2. VIETNAM'S ENFORCEMENT

- Preferential import tax under AJCEP that Vietnam applies to goods from Japan and ASEAN countries is currently stipulated in Decree No. 160/2017/ND-CP dated December 27, 2017 promulgating the Preferential Import Tariff. Vietnam's special treatment for the implementation of the AJCEP Agreement for the period of 2018 - 2022;

- The regulations on rules of good origin under AJCEP and the certification process are specified in Decision No. 44/2008/QD-BCT dated December 8, 2008 on rules of origin and certification procedures of certifying origin for AJCEP.

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