

JAPAN-AUSTRALIA

ECONOMIC PARTNERSHIP AGREEMENT



Factsheet: Trade in Goods – Rules

The Japan Australia Economic Partnership Agreement (JAEPA) does not just improve market access through lower tariffs, it also facilitates bilateral trade, and sets out rules to ensure that only Australian and Japanese goods benefit from the preferential market access agreed under JAEPA.

The JAEPA rules affecting trade in goods do this in the following ways.

Trade facilitation

To facilitate trade, JAEPA ensures that customs procedures are applied in a predictable, consistent, transparent, impartial and reasonable manner.

Greater transparency is a key outcome of JAEPA. Information on customs requirements will be more accessible online and through designated public inquiry points to assist traders to take full advantage of JAEPA.

JAEPA also provides legal certainty by enabling traders to apply for advance rulings in respect of origin and tariff classification, valuation, and to ascertain whether or not a good will qualify for preferential tariffs.

Under JAEPA, traders also have access to independent review mechanisms to address any complaints about customs decisions.

Non-tariff measures

Non-tariff measures (NTMs) are measures outside of tariffs that have the potential to negatively impact on trade. NTMs can include licensing or labelling requirements, customs procedures and standards. Many NTMs are legitimate policy measures put in place to provide protections for consumers. However, NTMs can also unnecessarily restrict trade or increase costs.

JAEPA improves the transparency of NTMs and ensures such measures do not create unnecessary obstacles to bilateral trade. This includes establishing a specific mechanism to review and address NTMs on a case-by-case basis that is activated at the request of either Australia or Japan.

Sanitary and phytosanitary measures

JAEPA establishes a framework for greater cooperation and information exchange on sanitary and phytosanitary measures (SPS), and includes the formation of a committee to help address any SPS problems.

SPS are used to protect human, animal or plant life or health by preventing the introduction of pests and diseases, and helps ensure food is safe for consumption.



Technical barriers to trade

Standards, regulations and conformity assessment procedures can also act as technical barriers to trade (TBT).

JAEPA fosters cooperation on standards including, where appropriate, accepting as equivalent the technical regulations of the other party. JAEPA also establishes a committee to address TBT issues that arise. Existing rights and obligations under the World Trade Organization (WTO) TBT Agreement have also been affirmed under the Agreement.

Trade remedies (safeguards and anti-dumping)

Trade remedies are trade policy tools that allow governments to take remedial action against imports which are causing material injury to a domestic industry. For example, anti-dumping action can be taken when an exporter sells goods at a price that is below the normal value of the goods.

Under JAEPA, a temporary bilateral safeguard measure may be applied if either an Australian or Japanese domestic industry faces “serious injury” due to a surge in imports following a reduction in tariffs under JAEPA. Application of a bilateral safeguard measure must follow a number of substantive and procedural requirements and may only be taken during a set transition period. A discretionary volume based safeguard on beef also applies.

Australia and Japan continue to have recourse to WTO trade remedy measures, such as global safeguards, anti-dumping and countervailing duty action.

Rules of origin

JAEPA establishes transparent and effective rules of origin (ROO) and clear origin procedures that promote compliance, without creating red tape or unnecessary obstacles to trade.

In order to access the preferential trade arrangements for goods under JAEPA, goods must meet ROOs. The ROOs provide criteria for determining whether or not a good is “originating” in either Party and therefore eligible for preferential tariff treatment. Without ROOs, third-parties could benefit from the Agreement by merely transshipping through Australia or Japan to access lower tariffs.

Chapter 3 of JAEPA sets out the rules to determine whether a good is “originating.” In general, a good can qualify as “originating” if:

- It is wholly obtained in either Party;
- It is produced entirely in the Party exclusively from originating materials of the Party; or
- It is manufactured in either Party using materials from other sources and meets the product-specific rules annexed to Chapter 3, and other requirements in the ROO Chapter.

For a good which contains some materials sourced from outside Japan or Australia, the general approach agreed under JAEPA is that it will qualify as “originating” if all materials from outside the Parties used in its production have undergone a substantial transformation as demonstrated by a change of tariff classification. For example, an Australian exporter might use imported nuts in a biscuit it manufactures. The biscuit would still be recognised as “originating” in Australia, even with the incorporation of the imported nuts, as the nuts have been transformed from one tariff classification to another in the process of manufacture. For some goods a value-added method or production process rule can apply.

JAEPA also includes a “de minimis” provision of 10 per cent. With some exceptions, this provision allows up to 10 per cent of the value of a good to consist of imported materials, without having to go through the change in tariff classification or a specific manufacturing or processing operation.



A claim for preferential tariff treatment for Australian goods exported to Japan can be made on the basis of either:

- An origin certification document completed by the importer, exporter or the producer; or
- A certificate of origin issued by an authorised body (usually at a fee for service).

This approach provides flexibility for traders, particularly small and medium-sized enterprises, who can choose to certify their own products, or pay a service provider to certify on their behalf. Traders will also be able to make post-importation claims for preferential tariff treatment, provided certain conditions are met.