



# Japan (JSEPA)

The Agreement between Japan and the Republic of Singapore for a New-Age Economic Partnership Agreement (JSEPA) marked a major milestone of our bilateral relations with Japan. It was Japan's first Free Trade Agreement (FTA). The agreement was signed by then-Prime Minister Goh and then-Prime Minister Koizumi on 13 January 2002 in Singapore and came into force on 30 November 2002.



JSEPA has brought substantive benefits to Japan and Singapore by laying a solid foundation for firmer economic linkages and integration between the two countries. Under the existing JSEPA, Japan increased its zero-tariff commitments from 34 per cent of total tariff lines under WTO to 77 per cent. JSEPA also liberalised trade in services significantly, expanding its commitments from 103 services sectors under WTO to 135.

The JSEPA Review was launched in April 2006. Both countries reached an agreement in principle on the major elements of the revised JSEPA, in January 2007. The revised JSEPA was signed by the Prime Ministers of Singapore and Japan on 19 March 2007. The tariff concessions came into effect in January 2008, whilst the other amendments to the Agreement will be effected after it has undergone the necessary legislative processes in the respective parties.

The revised JSEPA results in improved market access for goods, revised rules of origin, improved specific commitments for financial services, revised customs procedures and technical alteration to provisions on competition.

### Benefits to Singapore Exporters to Japan

With JSEPA and the recent review, exporters to Japan will enjoy near 100 per cent zero tariff treatment. The revised JSEPA will provide Singapore tariff-free treatment for 8,315 industrial and agricultural products, which constitute approximately 92.1 per cent of Japan's total tariff lines. In the area of industrial products, Japan will grant concessions on 26 petrochemical/plastic products with varying staging periods for tariff reduction. In the area of agricultural products, Japan will grant additional concessions for more than 1,340 products.

In the case of Mutual Recognition (MR) for Goods, manufacturers and exporters can simply send their products to local conformity assessment bodies for testing and certification without having to undertake duplicative testing and certification of products in the importing country.

In the case of Government Procurement (GP), both countries agreed on the lowering of the GPA threshold values for goods and services (except construction services) to SDR100,000. This is a SDR30,000 reduction from both Singapore's and Japan's GPA threshold of SDR130,000. This lowering will assist exporters to gain deeper access into the Japanese market.

### Trade in Goods

The Trade in Goods chapter provides for comprehensive tariff elimination that will reduce cost burdens for Singapore businesses exporting to the Japanese market. Savings from these preferential tariff concessions will make Singapore exports more competitive vis-à-vis other foreign exports to Japan. This will allow Singapore exporters to strengthen current market shares in Japan and will also create new opportunities for producers intending to penetrate the Japanese market. In the long run, such cost incentives will likely attract more businesses to site their operations in Singapore so as to tap on the preferential concessions from the FTA.

The rules are based on WTO disciplines and serve to eradicate barriers to trade in goods. Specifically, the chapter commits both countries to grant preferential tariff free market access to an extensive range of products. It also provides for possible acceleration of tariff elimination or inclusion of additional products for tariff elimination in the future.

### Rules of Origin

For the purposes of this Agreement, goods wholly obtained or produced entirely in a Party shall be treated as originating goods of that Party. Product-Specific Rules using the value-added method require that:

- it is determined in accordance with qualifying value content of a good and is not less than the percentage specified by the rule for the good in Annex IIA; and
- the good has undergone its last production or operation that satisfies the requirement of the sub-paragraph above in the territory of either Party.

For the purpose of calculating the qualifying value content of a good, the following method of calculation shall be applied:

$$\frac{\text{FOB value of good} - \text{NQM}}{\text{FOB value of good}} \times 100\%$$

where QVC is the qualifying value content of a good, NQM is the value of non-qualifying materials and FOB is the free-on-board value of a good.

$$\text{NQM} = \text{TVM} - \text{QVM}$$

where TVM is the total value of materials and QVM is the qualifying value of materials

### Product-Specific Rules

Product-Specific Rules requiring that the materials used undergo a change in tariff classification or a specific manufacturing or processing operation shall apply only to non-originating materials.

### Customs Documentation

The certificate of origin (CO) shall be that issued by the certification bodies designated by the exporting Party. Such certificate of origin shall include minimum data specified in Annex IIB ([www.fta.gov.sg/jsepa/annex\\_2b.pdf](http://www.fta.gov.sg/jsepa/annex_2b.pdf)). For Singapore, exporters should refer to the Singapore Customs website for further details on the issuance of the CO.

The issued CO shall be valid for 12 months from the date of issue. It should be kept up to three years after the date of importation for verification purposes.

### Advanced Ruling

The importing Party shall, prior to the importation of a good into its territory, issue a written advance ruling in accordance with its laws and regulations as to whether the good qualifies as an originating good to importers of the good or their agents and exporters of the good or their agents, where a written application is made with all the necessary information and the Party has no reasonable grounds to deny the issuance. The importing Party shall endeavour to issue such advance ruling regarding the origin of the good within 30 days of receipt of all the necessary documents for the advance ruling.

The importing Party shall respect the issued ruling with regard to importation into its territory of the good for a period of three years from the date of issuance of the advance ruling. The importing Party may modify or revoke the issued ruling:

- 1) if the ruling was based on an error of fact;
- 2) if there is a change in the material facts or circumstances on which the ruling was based; or
- 3) to conform with an amendment to this Agreement.

### Mutual Recognition Arrangement for Goods

The Japan-Singapore Mutual Recognition (MR) on conformity assessment provides for the mutual recognition of test results and certification by recognised conformity assessment bodies in both countries. With the MR, manufacturers and exporters can simply send their products to local conformity assessment bodies for testing and certification without having to undertake duplicative testing and certification of products in the importing country.

The MR will benefit each country's manufacturers and exporters of electrical/electronic products as well as telecommunications equipment by reducing potential time lags and cost burdens. Furthermore, by obviating the need for products to be tested by foreign conformity assessment bodies, manufacturers and exporters are likely to encounter less procedural delays due to language differences. Cost savings and shortened product dissemination time will make our businesses more competitive, thus creating greater market access and opportunities for them.

There are two Sectoral Annexes on Electrical and Electronic (E&E) products, and telecommunications equipment attached to the chapter. Designated conformity assessment bodies in the exporting country must be able to test and certify exports for compliance with the importing country's laws, regulations and administrative provisions stipulated in the Sectoral Annexes. In practice, this means that Singapore's exports of electrical, electronic, and telecommunications equipment to Japan can now be tested and certified without duplicative testing or certification in Japan and vice versa.

### Trade in Services

Japan expanded its commitments to 135 services sectors (86 per cent of a total of 157 sectors). With the JSEPA, Singapore service suppliers will now be able to supply a broad range of services to the Japanese market. Sectors that Japan has committed include distribution, computer, construction, financial, professional, telecommunication and transport services. There will be transparency in the regulations governing committed sectors and certainty in the trading environment. In short, the chapter defines a level playing field for Singapore suppliers interested in competing in the Japanese market.

In particular, Singapore companies can take advantage of improved commitments by Japan in the following sectors:

- 1) Education — Japan has committed in the JSEPA child day-care services and other education services, which would allow Singapore companies to venture into the Japanese market providing education services in areas such as corporate training, early childhood education, information technology and industry-related training such as packaging design centres.
- 2) Maritime transport — Japan has committed international transport of freight and passengers, which means that Singapore-based shipping companies are free to call at Japanese ports. Japan has also made commitments for maritime freight forwarding and non-discriminatory access to inland transport services (internal waterways transport, rail and road transport). With these enhanced commitments from Japan, Singapore shipping companies are now assured of unrestricted access to the world's second most important maritime nation. In addition, Singapore shipping companies can also provide integrated logistics services such as trucking, and delivery of the cargo that they have carried. Our companies in the maritime and logistics sectors will be able to benefit from this enhanced commitment.
- 3) Medical and Dental — The Japanese government has opened up this huge market for foreign capital investment.

- 4) Research and Development — Includes R&D services on natural sciences as well as interdisciplinary R&D services. These additional commitments mean that Singapore companies wanting to participate in the R&D market can do so. The Japanese government has agreed not to limit the activities of Singapore R&D companies, or impose regulations that would discriminate against them.
- 5) Testing and analysis — Japan has also committed its technical testing and analysis services for manufactured goods, a sector that Japan did not commit at the WTO. This sector has high economic potential given the enormous size of Japan's manufacturing sector, and Singapore companies can make use of the enhanced market opportunity to penetrate this market.

### Investment

The chapter covers the various stages of investment, ranging from the pre-investment stage to the post-investment stage. Investors who can benefit from this chapter are also not limited to only nationals of Singapore or companies owned by Singaporeans, but include permanent residents and enterprises with substantive business operations in Singapore. In addition, in terms of concessions, which are premised on a negative list approach, Japan and Singapore have listed a total of 21 reservations (12 reservations for Japan, covering about 20 industries and nine for Singapore). Except for these limited areas, investors from both countries will enjoy the liberal investment regimes that both countries will be binding under the chapter. The salient features of this chapter include:

- 1) Beneficiaries who are nationals of Japan or Singapore and enterprises that are owned or controlled by nationals. In respect of Singapore, permanent residents of Singapore who are investors are also included as beneficiaries under the JSEPA.
- 2) Broad range of investment instruments such as stocks and equities, as well as intellectual property rights, debt instruments and rights conferred by licenses and permits.
- 3) Expropriation & Compensation — In the event that such expropriation occurs, the governments are required to afford compensation for the expropriated investment.
- 4) Free Transfers — Both countries will allow the investors to freely repatriate and transfer funds related to their investments (such as capital, dividends, profits and royalties) into and out of the country.

### Movement of Business Persons

There may be limitations on the treatment accorded under this Part to natural persons who are permanent residents of Singapore, where Japan adopts measures pursuant to its domestic laws and regulations. The chapter will facilitate the movement of four major categories of business persons:

- 1) Business visitors, such as salespersons, will be permitted to enter and operate in Japan for a period of 90 days;
- 2) Intra-corporate transferees will be permitted to stay and work in Japan for as long as they are required by their companies;
- 3) Investors will be permitted to stay in Japan in order to establish and maintain their investments; and
- 4) Engineers can enter Japan to service their contracts with companies in Japan.

### Government Procurement

The Government Procurement (GP) Chapter of JSEPA mainly follows the WTO Government Procurement Agreement (GPA), which Singapore and Japan are both members of. The threshold for bidding for central government contracts for goods and services (apart for architecture, construction, engineering and some other technical services) has been brought down from SDR130,000 to SDR100,000.

With a reduced threshold, more governmental purchases by both Parties will be subject to the non-discriminatory, open and competitive tendering procedures. This would represent an increased chance for a Singapore supplier to respond and win the tenders from the Japanese Government (and vice versa).

All other aspects of the GP Chapter in JSEPA follow the WTO GPA and thus information as to the procedures for GP can be obtained from the Annexes of the GPA. Under the GPA, Singapore-based companies can bid for the provision of goods and selected services by 21 government ministries and agencies and 77 government-related entities. Entities will publish a notification in Kanpo (the official Government gazette) of their request for the materials and other necessary information on basic requirements for scheduled procurement, and will provide copies of the notification to suppliers upon request. Kanpo is published in Japanese, daily, by the printing bureau of the Ministry of Finance. Notifications in Kanpo will clarify the following:

- Entity's name and its address
- Subject matter of procurement (name, volume and basic requirement for procurement)
- Deadline for the submission of material
- Notice of any conferences scheduled to be held

Except in cases of urgency, the deadline for submission of material is usually set at least 30 days after the day following publication of the request for submission of materials. All central government and all sub-central entities, including prefectural governments entitled 'Do', 'Fu', 'Ken' and 'To', and all designated cities entitled 'Shitei-toshi', are covered under the government procurement chapter.

### Dispute Settlement

Singapore and Japan have negotiated a comprehensive set of dispute settlement procedures to ensure that if differences arise as to the interpretation or the implementation of rights and obligations under the Agreement, a predictable, efficient and effective framework is in place to resolve the dispute as quickly as possible. The procedures include the establishment of arbitral tribunal with a third arbitrator as chair and award of the arbitral as final and binding. The proceedings include the following:

- Tribunal finding within 120 days of establishment
- Confidential hearings and submissions
- Implementation of award within 12 months

### Intellectual Property

Both Singapore and Japan are focused on mutual collaboration and cooperation in identified arenas of intellectual property (IP) protection, including information exchange and IP rights education and awareness programmes. Specifically, mutual provision was made for direct access links to IP databases maintained by the national IP offices: Intellectual Office of Singapore (IPOS) and Japan Patent Office (JPT). In addition, Singapore agreed to facilitate patent applications filed in Singapore corresponding to one filed in Japan, according reciprocal treatment.