

Disclaimer: The negotiations between EU and Japan on Economic Partnership Agreement have not been concluded yet. Therefore, the whole texts are also still under negotiations and not finalised. However, in view of the growing public interest in the negotiations, the texts are published at this stage of the negotiations for information purposes. These texts are without prejudice to the final outcome of the agreement between the EU and Japan.

Any such texts should be finalised upon the signature and become binding upon the Parties under international law only after completion by each Party of its internal legal procedures necessary for the entry into force of the Agreement, followed by the final texts being submitted and approved by the legislators.

EU JAPAN Economic Partnership Agreement

Customs Matters and Trade Facilitation

Article 1

Objectives

The objectives of this Chapter are as following;

1. promoting trade facilitation for goods traded between the Parties while ensuring effective customs controls, taking into account the evolution of trade practices,
2. ensuring transparency of their customs legislation and other trade-related laws and regulations and consistency thereof with applicable international standards,
3. ensuring predictable, consistent and non-discriminatory application of their customs legislation and other trade-related laws and regulations,
4. promoting simplification and modernisation of their customs procedures and practices,
5. further developing risk management techniques to facilitate legitimate trade, while securing the international trade supply chain,

6. enhancing cooperation between the Parties.

Article 2

Scope

1. This Chapter shall apply to the matters relating to the Parties' customs legislation, other trade-related laws and regulations, and general administrative procedures related to trade, including their application for goods traded between the Parties, as well as the cooperation between the Parties.
2. Nothing in this Chapter shall affect the rights and obligations of either Party under Chapter X (SPS) or Chapter Y (TBT) of this Agreement.
3. In the event of any inconsistency between this Chapter and Chapter X (SPS) or Chapter Y (TBT) of this Agreement, Chapter X or Chapter Y shall prevail to the extent of the inconsistency.
4. This Chapter shall apply without prejudice to the fulfilment of legitimate policy objectives and the obligations under international conventions to which each Party is a party, regarding:
 - (a) the protection of public morals;
 - (b) the protection of human, animal, or plant life or health;
 - (c) the protection of national treasures of artistic, historic or archaeological value; or
 - (d) the protection of the environment.
5. This Chapter shall be implemented by the Parties in accordance with the laws and regulations of each Party. The Parties shall use their available resources in an appropriate way to implement this Chapter.

Article 3

Definitions

For the purposes of this Chapter:

“**customs authority**” means:

- in Japan, the Ministry of Finance; and
- in the European Union, the services of the European Commission responsible for customs matters and the customs administrations and any other authorities empowered in the Member States of the European Union to apply and enforce customs legislation;

“**customs legislation**” means any laws and regulations of Japan or the European Union, governing the import, export and transit of goods and placing of goods under any other customs procedures, including measures of prohibitions, restrictions and controls falling under the competence of the customs authorities;

“**customs territory**” means:

- in the European Union: the customs territory as referred to in Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013, laying down the Union Customs Code¹; and
- in Japan: the territory with respect to which the customs legislation of Japan are in force.

Article 4

Transparency

1. Each Party shall ensure that its customs legislation and other trade-related laws and regulations as well as general administrative procedures and relevant information of general application, related to trade are published and readily available to any interested person in an easily accessible manner, including through the internet, as appropriate.

2. Each Party shall publish and make readily available customs legislation, other trade-related laws and regulations and general administrative procedures related to trade as early as possible before their entry into force, in order to enable any interested person to become

¹ OJ L 269, 10.10.2013, p. 1.

acquainted with them, except;

- (a) in the case of urgent circumstances,
- (b) in the case of minor changes of laws, regulations or general administrative procedures,
- (c) where the effectiveness of the law or its enforcement is undermined as a result of prior publication,
- (d) for measures that have a relieving effect.

3. Each Party shall designate one or more enquiry points to answer reasonable enquiries from any interested persons on matters covered by paragraph 1. Enquiry points shall answer such enquiries and provide the relevant forms and documents within a reasonable time period set by each Party.

4. Each Party shall, as appropriate, provide for regular consultations between its customs authority and other trade-related agencies and traders or other stakeholders located within its territory.

5. Information on fees and charges shall be published in accordance with paragraphs 1 and 2. This information shall include the fees and charges that will be applied, the reason for such fees and charges, the responsible authority and when and how payment is to be made. Such fees and charges shall not be applied until information on them has been published.

Article 5

Procedures for Import, Export and Transit

1. Each Party shall apply its customs legislation and other trade-related laws and regulations in a predictable, consistent, transparent and non-discriminatory manner.

2. Each Party shall ensure that its customs procedures:

- (a) are consistent with international standards and recommended practices applicable to each Party in the area of customs procedures such as those made under the auspices of the

World Customs Organization² (hereinafter referred as to the “WCO”), including the substantive elements of *the International Convention on the Simplification and Harmonisation of Customs Procedures*, *the International Convention on the Harmonized Commodity Description and Coding System*, and the SAFE Framework of the WCO;

(b) aim at facilitating legitimate trade, taking into account the evolution of trade practices, while securing compliance with its laws and regulations;

(c) provide for effective enforcement in case of breach of its laws and regulations concerning customs procedures, including duty evasion and smuggling;

(d) do not include mandatory use of customs brokers or pre-shipment inspections.

3. Each Party shall adopt or maintain measures granting operators fulfilling criteria specified in its laws and regulations favourable treatment with respect to customs controls prior to the release of goods.

4. Each Party shall promote the development and use of advanced systems, including those based upon information and communications technology, to facilitate the exchange of electronic data between traders or operators and its customs authority and other trade-related agencies.

5. Each Party shall work towards further simplification and standardisation of data and documentation required by its customs authority and other trade-related agencies.

Article 6

Release of goods

Each Party shall adopt or maintain customs procedures that:

²The World Customs Organization (WCO), established in 1952 as the Customs Co-operation Council (CCC)

- (a) provide for the prompt release of goods within a period that is not longer than necessary to ensure compliance with its laws and regulations;
- (b) allow for advance electronic submission and processing of documentation and any other required information prior to the arrival of the goods; and
- (c) allow for the release of goods prior to the final determination of customs duties, taxes, fees and charges, subject to the provision of a guarantee, if required by its laws and regulations, in order to secure their final payment.

Article 7

Simplification of Customs Procedures

1. Each Party shall work towards the simplification of its requirements and formalities for customs procedures in order to reduce the time and costs thereof for traders or operators, including small and medium-sized enterprises.
2. Each Party shall adopt or maintain measures allowing traders or operators fulfilling criteria specified in its laws and regulations to benefit from further simplification of customs procedures. Such simplification may allow periodical declaration for the determination and payment of customs duties and taxes covering multiple imports within a given period, after the release of those imported goods.
3. Each Party shall adopt or maintain programmes which enable operators fulfilling criteria specified in its laws and regulations to benefit from or have easier access to the simplification referred to in paragraph 2.

Article 8

Advance Rulings

1. Each Party shall issue, through its customs authority, an advance ruling that sets forth the treatment to be provided to the goods concerned. That ruling shall be issued in a reasonable, time bound manner to the applicant that has submitted a written request, including

in electronic format, containing all necessary information in accordance with the laws and regulations of the issuing Party.

2. An advance ruling shall concern tariff classification of the goods, origin of goods including their qualification as originating goods under the provisions of Chapter [X] (Rules of Origin) or any other matter as the Parties may agree upon, in particular regarding the appropriate method or criteria to be used for the customs valuation of the goods.

3. Subject to any confidentiality requirements in its laws and regulations, a Party may publish its advance rulings, including through the Internet.

Article 9

Appeal and Review

1. Each Party shall guarantee to any person to whom customs authority or other trade-related agencies issue an administrative decision the right of appeal or review. Such appeal or review shall be implemented in a effective, non-discriminatory and easily accessible manner, within a reasonable time period in accordance with the laws and regulations in each Party.

2. Appeal or review shall include:

(a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision; and/or

(b) a judicial appeal or review of the decision.

3. Each Party shall ensure that, in a case where the decision on appeal or review under paragraph 2. (a) is not given within a period of time provided for in its laws and regulations or without undue delay the petitioner has the right to further administrative or judicial appeal or review.

4. Each Party shall ensure that the person referred to in paragraph 1 is provided with the reasons for the administrative decision so as to enable such a person to have recourse to appeal or review procedures where necessary.

Article 10

Risk Management

1. Each Party shall adopt or maintain a risk management system that enables its customs authority to concentrate inspection activities on high risk consignments and that expedites the release of low risk consignments.
2. Each Party shall base risk management on assessment of risk through appropriate selectivity criteria.
3. Each Party may also select, on a random basis, consignments for inspection activities referred to in paragraph 1 as part of its risk management.
4. Each Party shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions to international trade.

Article 11

Post-clearance audit

1. With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audit to ensure compliance with customs legislation and other trade-related laws and regulations. The result of post-clearance audit performed by the customs authority shall be used by it in applying risk management. A Party may provide for that the result of post-clearance audit performed by other trade-related agencies is used by the customs authority in applying risk management, and vice-versa.
2. Each Party shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Party shall conduct post-clearance audit in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved the Party shall, without delay, notify the person whose record is audited of the results, the person's rights and obligations and the reasons for the results.

Article 12
Transit and Transshipment

Each Party shall adopt or maintain procedures to facilitate the movement of goods from or to the other Party in transit through or transshipment within its customs territory, while maintaining appropriate control.

Article 13
Customs cooperation

1. Without prejudice to other forms of cooperation envisaged in this Agreement, the customs authorities of the Parties shall cooperate, including exchange of information, and provide each other with mutual administrative assistance in the matters referred to in this Chapter in accordance with the Agreement between the European Community and the Government of Japan on cooperation and mutual administrative assistance in customs matters of 30 January 2008 (CMAA), notwithstanding the provisions of Article [XX](Confidential Information in the Chapter on general Provisions)

2. The customs authorities of the Parties shall enhance cooperation in the matters referred to in this Chapter with a view to further developing trade facilitation while ensuring compliance with customs legislation and improving supply chain security, in the following areas:

- (a) cooperation on further simplification of customs procedures, taking into account the evolution of trade practices;
- (b) cooperation on harmonization of data requirements for customs purposes, in line with applicable international standards such as WCO standards;
- (c) cooperation on further development of the customs-related aspects of securing and facilitating the international trade supply chain in accordance with the *Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework)* of the WCO;

- (d) cooperation on improvement of their risk management techniques, including sharing best practices, and where appropriate, risk information and control results;
- (e) cooperation with a view to further development of the measures or programmes as referred to in paragraph 3 of Article 7 Simplification of customs procedures, including the possibility of cooperation with a view to allowing operators of a Party to benefit from the programme of the other Party;
- (f) cooperation and coordination in international organisations such as the World Trade Organization (WTO) and the WCO, on matters of common interest, including tariff classification, customs valuation and origin with a view to establishing, where possible, common positions ;
- (g) cooperation on enforcement against the trafficking of prohibited goods ;
- (h) ensure the exchange of information necessary for the purpose of points (a) to (g).

Article 14

Specialized Committee on Customs-related Matters and Rules of Origin

1. The Parties hereby establish a Specialized Committee on Customs-related Matters and Rules of Origin (hereinafter referred to in this Article as “the Committee”), for the purpose of implementation and operation of the provisions of this Chapter, the provisions of the *Chapter/Protocol [X1] ‘Rules of Origin’*, the provisions on *‘Border Measures’* in the *Chapter [X2] ‘Intellectual Property Rights’*³ and the *customs-related provisions* in *Chapter [X3] ‘Trade in Goods’*, as well as the provisions on *‘Mutual Administrative Assistance’* referred to therein.

2. For the matters covered by the provisions referred to in paragraph 1, the Committee shall report to the *[Trade/Joint Committee set up under Article X]*.

³ For greater certainty, nothing in this Article shall affect the rights and obligations of the Parties with regard to the Specialized Committee on IPR to discuss on “Border Measures” in the Chapter [X2].

[The Committee shall adopt its rules of procedure.]

Note of negotiators : depending on the rules of General Provisions

3. The Committee shall meet at such times and venues or by means, as may be agreed by the Parties, with an agenda fixed by mutual consent. It shall hold joint meetings with the Joint Customs Cooperation Committee (JCCC) established pursuant to the CMAA, except where it is not necessary to ensure consistency in the implementation and operation of the provisions referred to in paragraph 1 and in the CMAA⁴.

4. The Committee shall be composed of representatives of the Parties. The Parties shall ensure that the composition of their delegations in meetings of the Committee corresponds to the agenda items.

5. Without prejudice to the functions of the JCCC, the functions of the Committee shall be, in accordance with the objectives of this Agreement:

(a) to address all issues arising from the implementation and operation of the provisions referred to in paragraph 1;

(b) to identify areas for improvement in the implementation and operation of the provisions referred to in paragraph 1;

(c) to function as a mechanism to expeditiously reach mutually agreed solutions with regard to any matters covered by the provisions referred to in paragraph 1;

(d) to formulate resolutions, recommendations or opinions regarding actions or measures which it considers necessary for the attainment of the objectives and effective functioning of this Chapter;

⁴ For greater certainty, nothing in this Article shall be construed to prevent the JCCC from holding a meeting solely within the framework of the CMAA.

- (e) to take actions or adopt measures by means of decisions, in the areas referred to in Article 13(1), which it considers necessary for the attainment of the objectives and effective functioning of this Chapter;
- (f) to carry out other functions as may be delegated by the [*Trade/Joint Committee*].

Article 15 **Temporary Admission**

For the temporary admission of the goods referred to in Article XX in Chapter [] (TiG) and regardless of their origin, each Party shall, in accordance with the procedures, laid down in international conventions concerning temporary admissions, applied by that Party, accept A.T.A. carnets issued in the other Party.

Article XX (Move to Trade in Goods Chapter) **Temporary Admission of Goods**

Each Party shall grant duty-free temporary admission for [any of] the following goods as specified or conditioned in its laws and regulations, provided that such goods do not undergo any change except normal depreciation due to the use made of them and are exported within the time period set by each Party:

- (a) Goods for display or use at exhibitions, fairs, meetings or similar events;
- (b) Professional equipment, including equipment for the press or for sound or television broadcasting, cinematographic equipment, ancillary apparatus for the above mentioned equipment and accessories therefor;
- (c) Commercial samples and advertising films and recordings;

- (d) Containers and pallets in use or to be used in the shipment of goods in international traffic, accessories and equipment therefor;
- (e) Welfare materials for seafarers;
- (f) Goods imported exclusively for scientific purpose;
- (g) Goods imported for international sports contests, demonstrations or training;
- (h) Personal effects owned by temporarily visiting travellers; [or]
- (i) Tourist publicity material.