Japan’s Economic Partnership Agreement (EPA)

Customs & Tariff Bureau,
MOF JAPAN

May 30, 2008
Japan’s Current Status of EPA/FTA negotiations

- **2002**
  - Entered into force in November

- **2003**
  - Entered into force in April
  - Signed in September

- **2004**
  - Entered into force in July
  - Entered into force in November

- **2005**
  - Signed in December
  - Entered into force in November

- **2006**
  - Signed on March 27th
  - Signed on August 20th
  - Signed on June 18th

- **2007**
  - Signed on April 3rd
  - Entered into force on September 3rd

- **2008**
  - Completion of Signing on April 14th

**Signed:**
- 5 Singapore (2002.11)
- Mexico (2005.4)
- Malaysia (2006.7)
- Chile (2007.9)
- Thailand (2007.11)
- Philippines (2006.9)
- Brunei (2007.6)
- Indonesia (2007.8)
- ASEAN (2008.4)

**Under negotiation:**
- 6 Korea, GCC, Viet Nam, India, Australia, Switzerland

**Preliminary discussions etc.:**
- GCC: UAE, Oman, Qatar, Kuwait, Saudi Arabia, Bahrain

**Entered into force:**
- 5 Singapore (2002.11)
- Mexico (2005.4)
- Malaysia (2006.7)
- Chile (2007.9)
- Thailand (2007.11)
- Philippines (2006.9)
- Brunei (2007.6)
- Indonesia (2007.8)
- ASEAN (2008.4)
FTA and EPA

Economic Partnership Agreement (EPA)

Free Trade Agreement (FTA)

Trade in Goods
Trade in Services

Investment,
Movement of People,
Government Procurement,
Competition Policy,
Bilateral Cooperation, etc.
Example: Japan-Malaysia EPA
(Entered into force in July 2006)

• Chapter 1: General Provisions
• Chapter 2: Trade in Goods
  (e.g., Tariff elimination/reduction, bilateral safeguard measure)
• Chapter 3: Rules of Origin
  (e.g., Rules to decide the origin of goods, Issuance of certificate of origin)
• Chapter 4: Customs Procedures
  (e.g., Harmonization/simplification)
• Chapter 5: Technical Regulations, Standards, and Conformity Assessment Procedures (TBT)
  (e.g., Exchange information)
• Chapter 6: Sanitary and Phyto-sanitary Procedures (SPS)
  (e.g., Exchange information)
• Chapter 7: Investment
  (e.g., Protection of investment, Liberalization of investment)
• Chapter 8: Trade in Services
  (e.g., Liberalization of trade in service)
• Chapter 9: Intellectual Property
  (e.g., IPR protection)
• Chapter 10: Controlling Anti-competitive Activities
  (e.g., Measures against anti-competitive activities)
• Chapter 11: Improvement of Business Environment
  (e.g., Establishment of Sub-Committee on improvement of Business Environment)
• Chapter 12: Co-operation
  (e.g., Promotion of co-operation)
• Chapter 13: Dispute Settlement
• Chapter 14: Final Provisions
Eliminating tariffs exclusively between FTA/EPA partners

Degree of Liberalization

WTO principle: MFN (Most-Favored-Nation) Treatment

Exception to MFN treatment

Conceptual Model

WTO

FTA/EPAs and WTO

Applying tariff rates equally to all WTO Members (MFN)

MFN tariff rates

Preferential tariff rates*

* Japan-Malaysia EPA
WTO consistency of FTA/EPAs

• **GATT Article XXIV (Trade in Goods)**
  - Prohibition against raising barriers to non-EPA/FTA members
  - Elimination of:
    ✓ Tariff on “substantially all the trade” between the parties
    ✓ Other restrictive regulations of commerce
  - Implementation with a “reasonable length of time”
  - Notification to the WTO

• **GATS Article V (Trade in Services)**
  - Substantial sectoral coverage
  - Notification to the WTO
Interpretation of GATT Article XXIV (Trade in Goods)

• “Substantially all the trade” between the parties
  - No internationally-agreed definition
  - One general idea:
    ✓ covering more than 90% of trade value
    ✓ not excluding of specific sector entirely

• “Reasonable length of time”
  - Understanding on the interpretation of Article XXIV of GATT 1994:
    ✓ 10 years unless exceptional cases
The number of RTA notified to the GATT/WTO

(source) Summarized by Ministry of Finance, based on Regional Trade Agreements Notified to the GATT/WTO and in Force (WTO)

(note) The number of RTA notified to GATT/WTO, counting one if notified under both GATT and GATS. The number in bracket is the year that the RTA entered into effect.

* Total 140 RTAs as of 10 February 2008 (excluding ones between EU Member States)
<table>
<thead>
<tr>
<th>Country</th>
<th>Entered into force or signed</th>
<th>Under negotiation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Japan</td>
<td>9 Singapore, Mexico, Malaysia, Philippines, Chile, Thailand, Brunei, Indonesia, ASEAN</td>
<td>6 Korea, GCC, Vietnam, India, Australia, Switzerland</td>
</tr>
<tr>
<td>Korea</td>
<td>5 Chile, Singapore, EFTA, ASEAN, USA</td>
<td>5 Japan, Canada, Mexico, India, EU</td>
</tr>
<tr>
<td>China</td>
<td>6 Hong Kong, Macao, ASEAN, Chile, Pakistan, New Zealand</td>
<td>6 Australia, SACU, GCC, Singapore, Iceland, Peru</td>
</tr>
<tr>
<td>USA</td>
<td>14 Israel, NAFTA, Jordan, Singapore, Chile, Australia, Morocco, Bahrain, Peru, Colombia, Panama, Korea, etc</td>
<td>6 FTAA, SACU, Thailand, Malaysia, UAE, Ecuador</td>
</tr>
<tr>
<td>EU</td>
<td>22 Turkey, Tunisia, South Africa, Morocco, Israel, Mexico, Croatia, Jordan, Chile, Egypt, etc</td>
<td>5 MERCOSUR, GCC, ACP (Africa-Caribbean-Pacific)*, Korea, India</td>
</tr>
<tr>
<td>Australia</td>
<td>4 New Zealand, Thailand, Singapore, USA</td>
<td>6 ASEAN, China, Malaysia, Japan, Chile, GCC</td>
</tr>
<tr>
<td>ASEAN</td>
<td>3 China, Korea, Japan</td>
<td>2 India, Australia-New Zealand</td>
</tr>
</tbody>
</table>

NAFTA (North American Free Trade Agreement): Canada, Mexico, USA  
EFTA (European Free Trade Association): Iceland, Switzerland, Norway, Liechtenstein  
MERCOSUR (Mercado Comun del Sur): Argentina, Uruguay, Brazil, Paraguay, Venezuela  
SACU (Southern African Customs Union): South Africa, Swaziland, Namibia, Botswana, Lesotho  
GCC (Gulf Cooperation Council): UAE, Oman, Qatar, Kuwait, Saudi Arabia, Bahrain  
* Interim agreement entered into force with 39 ACP economies by 1 January 2008

(source) Summarized by Ministry of Finance, Japan
Would EPA/FTAs Complement WTO’s Multilateral Trading System?

• **EPA/FTA as “building block” for the WTO system**
  - To promote multilateral negotiations
    (e.g. Uruguay round vs. NAFTA)
  - Provide a basis/model for future WTO negotiations
    (e.g. investment, competition)

• **EPA/FTA as “stumbling block” for the WTO system**
  - Preferential trade liberalization between EPA/FTA partners diverges from WTO MFN principle, even if the EPA/FTA concerned satisfies the GATT Article XXIV
    ✓ Potential threat to the WTO system, Marginalization of LDCs
  - “Spaghetti Bowl” concerns
    ✓ Complex web of different Rules of Origin of various EPA/FTAs, resulting in an increase in administrative burden of both traders & Customs, etc.
(source) APEC WORKSHOP ON BEST PRACTICES IN TRADE POLICY FOR RTAs/FTAs: PRACTICAL LESSONS AND EXPERIENCES FOR DEVELOPING ECONOMIES, February 2006, Ha Noi, Viet Nam
UNDER NEGOTIATION

(source) APEC WORKSHOP ON BEST PRACTICES IN TRADE POLICY FOR RTAs/FTAs: PRACTICAL LESSONS AND EXPERIENCES FOR DEVELOPING ECONOMIES, February 2006, Ha Noi, Viet Nam
Basic policy towards further promotion of Economic Partnership Agreements (EPAs)

approved by

the Council of Ministers on the Promotion of Economic Partnership

on December 21, 2004

(source) www.mofa.go.jp/policy/economy/fta/policy0412.html
Japan’s basic policy on FTA/EPAs (summary)

- Focus on partner countries in East Asia, with which Japan has vital economic/political interests.

- When selecting partner countries in other region, the following criteria should be taken into account:
  - Creation of international environment beneficial to Japan;
  - Attainment of overall economic interests of Japan;
  - Situation of the partner countries/regions and feasibility to realize EPA/FTA.

- Depending on the economic relation with partner countries, alternative measures other than EPA, such as investment promotion agreement, may be sought.
Japan’s basic policy on FTA/EPAs: 12 criteria on identifying partners (summary)

1. Creation of international environment beneficial to Japan
   1-1 Community building, stability and prosperity in East Asia
   1-2 Strengthen Japan’s economic power, tackle political/diplomatic challenges
   1-3 Reinforce Japan's position at multilateral negotiations (e.g. WTO Doha round)

2. Attainment of economic interests of Japan as a whole
   2-1 Expand and facilitate exports of industrial/agricultural goods, trade in services, and investment; improve the business environment for Japanese companies operating in the partner countries; facilitate movement of natural persons, etc.
   2-2 Eliminate economic disadvantages caused by absence of EPA/FTA
   2-3 Contribute to stable imports of resources, safe and reliable food
   2-4 Promote Japan's economic and social structural reforms
   2-5 Promote acceptance of professional/technical workers

3. Situation of the partner countries/regions and feasibility to realize EPA/FTA
   3-1 “Appropriate consideration” to sensitive products.
   3-2 Less potential frictions/problems with third countries
   3-3 Capacity of partner country to implement the commitments
   3-4 Whether or not an FTA the best means of economic partnership
• Positive and strategic efforts according to the revised EPA timetable
  the number of EPA: 4 (January 2007) -> 12 or more (January 2009, expected)
  ref. trade share with EPA partners (Economic and Fiscal Reform 2006; July 2006): 6.9% (January 2007) -> 25% or more (2010, expected)

• Promoting EPA studies with large market/investment countries as a future task
  e.g. USA, European Union (EU)

• Promoting EPA studies on a regional scale
  e.g. ASEAN+3 (ASEAN, China, Japan, Korea)
  ASEAN+6 (ASEAN, China, Japan, Korea, Australia, NZ, India)
  FTAAP (Free Trade Area of the Asia–Pacific: 21 APEC economies)
Share of Japan’s EPA partners in terms of it’s total trade (2007)

Partners of Japan’s EPA entered into Force or signed (14.8%)
- Singapore 2.2%
- Malaysia 2.4%
- Thailand 3.3%
- Chile 0.7%
- CLMV (the rest of ASEAN members) 0.9%

Under Negotiation (19.9%)
- Korea 6.1%
- India 0.8%
- Australia 3.4%
- Switzerland 0.6%
- GCC 9.0%
- (Viet Nam: 0.9%)

China, Hong Kong, Taiwan
- China 17.7%
- Hong Kong 3.0%
- Taiwan 4.8%

(Source) Trade Statistics, Ministry of Finance, Japan
For more details, please refer to the followings:

http://www.customs.go.jp/english/epa/index.htm  (In English)
http://www.customs.go.jp/kyotsu/kokusai/fta-epa_index.htm
(In Japanese)
[Ministry of Finance]

[Ministry of Foreign Affairs]