Agreement ID : JAPAN-MALAYSIA
Short Name : Japan-Malaysia FTA&EIA

Member Countries

Japan
Malaysia

Total: 2 countries

Agreement between the Government of Japan and the Government of Malaysia for an Economic Partnership

Status : Signed in **2005**. In force since 2006
Scope : Bilateral
Type : FTA & EIA
WTO Notification : GATT Art XXIV, GATS Art V 2006
Agreement text :
http://www.mofa.go.jp/region/asia-paci/malaysia/epa/index.html
Other links :
http://www.mofa.go.jp/policy/economy/fta/malaysia.html
WTO consideration process :
Under consideration

GOODS

Tariffs
Chapter 2; Article 19: each Country shall eliminate or reduce its customs duties in accordance with its Schedule in Annex 1
Annex 1: Tariff elimination schedule varies for every product group, maximum 10 years.

Rules of Origin
Chapter 3; Article 28 (1) (c); RVC 40-50% and Change in tariff classification

Annex 2: product specific rules

Contingency Measures
Anti - Dumping : Chapter 2; Article 16: As per Country's law and WTO agreement
Countervailing Duties : Chapter 2; Article 16: As per Country's law and WTO agreement
Safeguards : Chapter 2; Article 23: bilateral safeguard is allowed. Article 24: Restrictions to Safeguard the BOP: As per WTO agreement

Standards : Chapter 5: TBT. Chapter 6: SPS: establish Sub-Committee on TBT and SPS

Notes :

SERVICES

WTO Notification (GATS Art. V) : Notified
Date of notification : 12/07/2006
Consideration Process : Factual Presentation issued

Liberalization Approach : Positive Lists

Modes Covered
Cross - Border Supply : **Yes**
Consumption Abroad : **Yes**
Commercial Presence Abroad : **Yes**
Movement of Natural Persons : **Yes**

Specific Chapters on
Financial services : **Yes**

Specific Sectors Excluded
Air transport : **Yes**

Public Sectors carve-out : GATS-like (Article I:3(b))

Most Favoured Nation : Binding

National Treatment : Binding

Market Access : Binding

Domestic Regulation : Non-binding (NAFTA-like)

Subsidies covered by services disciplines : Not covered

Denial of benefits for commercial presence : Article 109 Denial of Benefits

Notes :

Link to schedules :

INVESTMENT

Scheduling Approach : Negative Lists

Definition of investment : Covers portfolio investment

Most Favoured Nation : Binding

National Treatment : Binding
NT provision applies to entry and establishment rights : **Yes**

Fair and Equitable Treatment : Binding

Expropriation : Binding

Board of Directors and executive personnel : Not Featured

Invester - State arbitration : Yes

Denial of Benefits :
Article 91 Denial of Benefits1. A Country may deny the benefits of this Chapter to an investor of the other Country that is an enterprise of the other Country and to an investment of such investor if investors of a third State own or control the enterprise, and the denying Country. (a) does not maintain diplomatic relations with the third State; or(b) adopts or maintains measures with respect to the third State that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or to its investments.2. Subject to prior notification and consultation, a Country may deny the benefits of this Chapter to an investor of the other Country that is an enterprise of the investors of a third State own or control the enterprise and the enterprise has no substantial business activities in the Country under whose law it is constituted or organized.

Additional BIT exists between the parties : No
BIT list I :
Status:
BIT list II :
Status:

Notes :
Article 75.2National Treatment does not apply to the establishment, acquisition and expansion of portfolio investments.Article 85.17Investor-State arbitration does not apply to any dispute arising between a Country and an investor of the other Country on any right or privileges conferred or created by Articles 75(National Treatment) and 79(Prohibition of Performance Requirements).

Link to schedules :

TRADE FACILITATION

Customs procedures : **Yes** Chapter 4
Customs valuation : **Yes** Chapter 2; Article 20: As per WTO Agreement on Customs Valuation
Trade regulations publication and administration : **Yes** Chapter 4; Article 56
Use of ICT : **No**
Mobility of business people : **No**
Freedom of transit : **Yes** Chapter 4; Article 55
Transport and logistics : **No**
Trade finance : **No**

OTHER AREAS

Government Procurement : **No**
Investment : **Yes** Chapter 7
Competition Policy : **Yes** Chapter 10
Intellectual Property : **Yes** Chapter 9
Dispute Settlement : **Yes** Chapter 13
Labor Mobility : **No**
Labor and Environmental Standards : **Yes** Chapter 12 refers to cooperation on labour provisions. Articles 139 and 140 on fields of cooperation
Technical cooperation : **Yes** Chapter 12
Institutional mechanism : **Yes** Chapter 1; Article 14

Notes :
Negotiations are expected to end by mid 2005. 8 rounds of negotiation have taken place so far.

RULES OF ORIGIN

Cumulation
Chapter 3; Article 29: Allwed, partial

Specific Process
Annex 2: product specific rules
Heading Change

De Minimis
Chapter 3; Article 30; Annex 2; Section 1(e): 7-10%
Minimum Content

Drawback
Not mentioned
HTTP Link
http://www.mofa.go.jp/region/asia-paci/malaysia/epa/annex2.pdf

Notes :