

**Customs Issues for Tax and Accounting Executives**  
**Installment #2**

**THE AGREEMENT BETWEEN JAPAN AND THE UNITED MEXICAN STATES FOR THE  
STRENGTHENING OF THE ECONOMIC PARTNERSHIP**

**I. Introduction**

In the second installment of “Customs Issues for Tax and Accounting Executives”, we would like to introduce the “Trade Agreement between Japan and the United Mexican States for Strengthening of the Economic Partnership” (the “Japan-Mexico Trade Agreement or “the Agreement”), with a particular focus on the applicable origin requirements. It should be noted that the basic concept of the origin requirements, discussed in relation to the Japan-Mexico Trade Agreement, are embodied in various other free trade agreements (“FTA”), such as the CEPT Scheme under the ASEAN Free Trade Agreement, and that between China and the ASEAN, under which Japan-based multinational enterprises have already been receiving customs duty savings and other associated benefits. Also, it is important to recognize that these FTAs have affected (and are expected to affect) those other than the direct beneficiaries of such FTAs. For example, in order for an auto maker based in Japan to realize the benefits granted under the Japan-Mexico Trade Agreement, it will need to analyze the cost data of the finished product, including materials/components sourced from related and unrelated suppliers by such auto maker, in relation to the rules of origin, discussed below. In addition, procurement/logistics decisions of those trying to secure the FTA benefits may be affected by the rules of origin and other requirements, with potential implications on the suppliers’ business strategies (e.g., location, sourcing, etc.)

**II. Background**

In April 2005, after numerous rounds of negotiations, the provisions of the “Trade Agreement Between Japan and the United Mexican States For the Strengthening of the Economic Partnership” (the “Japan-Mexico Trade Agreement” or “the Agreement” herein) came into effect. Under the Agreement, both signatories agreed to a number of significant trade liberalization measures affecting the trade in goods and services, investment, human resources development and other forms of economic cooperation.

### **III. Benefits for Importers/Exporters**

Duty rates imposed on certain commodities are scheduled to be significantly reduced under the provisions of the Japan-Mexico Trade Agreement in phases. For current users of special trade programs (such as “PROSEC”), the short-term benefits under the Agreement may be somewhat limited; however, for Japanese exporters/firms who trade with Mexico, particularly those exporting high-tariff products such as car, steel, etc., the Agreement promises to alleviate some of the financial burden/costs of trade with their Mexican partners. Additionally, Japanese firms importing goods from Mexico can also take advantage of opportunities to save customs duties under the Agreement.

Because of the significance of the potential benefits available under the Agreement (particularly in the mid to long term), in the form of reduced tariffs and enhanced market access, Japanese firms engaged in trade with Mexico should begin examining their transactions as soon as possible. At a minimum, certain significant operating decisions (e.g., relocating factories, supply-chain restructuring, etc.) should be examined in light of the potential benefits available under the Agreement, even before the full benefits of the Agreement kick-in.

### **IV. Requirements: Rules of Origin and Certification Requirements**

#### **1) Benefits Only Extend to Originating Goods**

One of the most significant aspects of FTAs, including the Japan-Mexico Trade Agreement, is that preferential duty treatment to merchandise is granted only if that merchandise is eligible as an “originating good” under the respective FTA.

Specifically, the Japan-Mexico Trade Agreement offers preferential duty rate, only if products imported into Japan or Mexico meet complex “rules of origin” and related requirements. Thus, conforming with the rules of origin (and related requirements) under the Agreement is paramount to maximizing benefits under the Agreement.

#### **2) Rules of Origin**

Generally speaking, “originating goods,” that qualify for preferential treatment under the Japan-Mexico Trade Agreement, are goods which are wholly grown, produced, or manufactured in the territory of one of the signatory countries, Japan or Mexico. Obviously, for agricultural products and the like, which are generally considered to be originating in the country in which they are grown and harvested, this general rule is easily applied. However, for other merchandise, e.g. value added products, such as industrial products processed in one of the

signatory countries, the origin criteria applied under the Agreement is more complex. Specifically, depending on the character and nature of the merchandise in question, the following tests may be applied to determine the origin of (non-agricultural) products, which do not qualify under the general rule:

**a) “Tariff Shift” Rule** – merchandise processed in Japan or Mexico may be considered originating for purposes of the Agreement if all of the nonoriginating materials in the article in question have undergone the applicable “tariff shift,” a change from one commodity classification code to another specific classification code.

**b) Processing Requirements** – processed merchandise may be considered originating for purposes of the Agreement only if certain enumerated processes are performed in Japan or Mexico.

**c) Regional Value Content (RVC)** – merchandise processed in Japan or Mexico may be considered originating for purposes of the Agreement if they satisfy certain regional content criteria – e.g. where the originating components of the merchandise equal or exceed a certain percentage of the total value of the product in question.

With regard to the RVC requirement, complexities with the rules of origin arise in that the RVC percentage applied to a particular product depends on the character and nature of that product in question, and, detailed rules regarding the treatment of *de minimis* materials, intermediate components, interchangeable materials/components, indirect materials, etc. must also be carefully considered in establishing whether the RVC requirement is satisfied.

### **3) Direct Delivery Rule**

In addition to the above origin criteria, generally speaking, the products for which preferential tariff treatment is claimed must have been directly shipped to the country of importation from the territory of one of the signatories to qualify for benefits under the Agreement. Specifically, the following direct delivery requirements must be satisfied:

**a)** the goods must not be subject to further processing (and value added to the goods) after manufacture and exportation from the signatory country; and

**b)** with respect to the goods, which are shipped via, or temporarily stored, in a third country, such goods must be controlled by the customs authority of such third country at all times (please

note that additional documentation must be produced to demonstrate that the goods in question were controlled by the customs authority of such non-signatory at all times).

#### 4) **Certificate of Origin and Certificate of Customs Quota**

To obtain preferential tariff treatment, the importer/exporter is generally required to obtain a Certificate of Origin, which confirms the country of origin for the product in question, from the designated authority in the country of manufacture/export, and, present that Certificate to the customs authorities in the country of import. If the appropriate authority issues the Certificate and it is accepted by the customs authorities in the country of importation, the preferential duty rate under the agreement is applied to the products in question upon importation. The Mexican Ministry of Economy and the Japan Chamber of Commerce, respectively, are designated as the parties responsible for the issuance of these Certificates. To obtain such Certificate, the importer/export must submit detailed information about the product and follow certain administrative procedures, which can prove quite burdensome without proper guidance and/or preparation.

#### V. **Closing**

In the next (and future) GETS articles, we'll continue with our discussion of general customs valuation rules, valuation planning techniques and updates on customs and trade developments around the globe.

For further information about the details of the Japan-Mexico Trade Agreement and potential savings opportunities available to your firm under the agreement, please contact our Worldtrade Management Services professionals in Japan.

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