

Japan Inbound Tax & Legal Newsletter

Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) to enter into force

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In Brief

The [Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#)¹, a free trade agreement (FTA) that is based on the Trans-Pacific Partnership (TPP) agreement, will enter into force for certain countries on 30 December 2018. The following 11 countries (all of the countries that were part of the TPP except the US) have signed the CPTPP: Japan, Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam. When in effect, the CPTPP will cover nearly 500 million people and about 13.3% of the global gross domestic product, and will eliminate 98% of the duties within the CPTPP region.

Among the objectives of the CPTPP are to:

- Realize expeditiously the benefits of the TPP and their strategic and economic significance;
- Contribute to maintaining open markets, increasing world trade and creating new economic opportunities for people of all incomes and economic backgrounds;
- Promote further regional economic integration and cooperation between the parties; and
- Promote high standards on human rights, labor practices and the environment.

1. Highlights of the CPTPP relevant to Japan

- Customs duties will not be eliminated for exports of beef products into Japan and a number of dairy products into Japan, Canada and Mexico; however, access for dairy products will be improved through partial duty reductions and duty-free quotas.
- Currently, Canada and New Zealand do not have an FTA with Japan. Through participation in the CPTPP, these two countries will gain preferential access into Japan, the world's third-largest economy, via lower or no duties.
- More than three quarters of Canada's agriculture and agri-food products exported to the CPTPP countries will benefit from immediate duty elimination. For pork exported to Japan, duties for higher-priced pork cuts will be eliminated within 10 years, while duties on lower-priced pork cuts will be reduced within 10 years. Further, Canada will have access to a Canada-specific quota for exports of food wheat and a shared CPTPP-wide quota for exports of food barley to Japan.
- All duties for New Zealand kiwifruit will be eliminated upon the CPTPP's entry into force. Duties on New Zealand apples will be eliminated within 11 years, levelling the playing field with Australian exporters, who currently enjoy preferential access into Japan. All of New Zealand's fish and fish products imported into Japan currently face duties. Under the CPTPP, these will be 99% eliminated within 11 years, and the remainder within 16 years. Duties on beef exports to Japan ultimately will be reduced from 38.5% to 9%, the best outcome that Japan has ever agreed with any trade agreement partner.

¹ Source of the URL: NEWZEALAND FOREIGN AFFAIRS & TRADE

- For the remaining CPTPP countries (Japan's existing FTA partners), the CPTPP could provide new market access through additional duty eliminations or reductions. Further, as stated below, since the CPTPP adopts relatively flexible rules of origin, it could broaden the scope of the goods that can enjoy preferential access.

2. Applying the CPTPP

(1) Rules of Origin

To enjoy preferential access through an FTA, a product must satisfy the agreement's "rules of origin," which are rules that determine the "nationality" of the product. The details of the rules of origin can vary depending on the FTA and the product. Examples of the rules of origin adopted under the CPTPP are as follows:

- A certain percentage of a product's value needs to be added within the CPTPP region;
- A certain degree of transformation of a product needs to occur within the CPTPP region; and
- One or more specific processes need to be carried out within the CPTPP region.

As pointed out above, the CPTPP rules of origin take into account not only the operations conducted in the exporting (manufacturing) country, but also the operations conducted in the other CPTPP countries. This could greatly increase a company's flexibility in where it sources its materials/parts.

(2) Self-certification

Under the CPTPP, the importer claims preferential access based on a certification of origin completed by the exporter, the producer or the importer. In other words, only self-certification of origin will be required under the CPTPP. For Japan, the EU-Japan Economic Partnership Agreement and the CPTPP are the first set of FTAs that require only self-certification.

For the purpose of determining whether a product originates within the CPTPP region, the relevant authorities of the importing country may conduct an investigation to verify the origin of a product by, for example:

- Submitting a written request for information to the importer of the good;
- Submitting a written request for information to the exporter or producer of the good; and/or
- Conducting a verification via visiting the premises of the exporter or producer of the good.

3. Road to implementation

Japan, Australia, Canada, Mexico, New Zealand and Singapore have completed their notification of ratification or approval of the CPTPP to New Zealand (the depository country) as of 31 October 2018, and the CPTPP is set to enter into force on 30 December 2018 for these six countries.

For each of the other signatory countries, the CPTPP will enter into force 60 days after the date on which the country notifies New Zealand of the completion of its domestic legal procedures.

Deloitte's View

The CPTPP opens/expands business opportunities for exporters located in CPTPP countries, especially for foreign exporters of high tariff products (e.g. agriculture and agri-food products) to Japan. However, as the utilization of FTAs with Japan increases, so will the number of verifications and investigations conducted by government authorities. Under the CPTPP, the authorities of the importing country can directly request information from the importer, exporter and/or producer (direct verification). Further, the authorities can visit the premises of the exporter or producer. Therefore, it is important for companies to establish appropriate FTA utilization processes/flows, gather and maintain the information and documents necessary to prove a product's origin and prepare for potential verifications.

Companies should consider consulting with their global trade advisors to determine the effective utilization of trade preference schemes such as the CPTPP and other FTAs, e.g. by reviewing the company's logistic and production flow to analyze whether the agreement could reduce duty payment and to identify potential optimized supply chains taking into account existing and anticipated FTAs.

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