



LES BRÈVES



SAVOIR,
FAIRE

LES BRÈVES - INFORMATIONS JURIDIQUES

PROPOSÉES PAR LE GROUPE DS

EU-Japan Economic Partnership Agreement : Retrospective benefit of preferential tariff treatment is authorised in the EU

The EU-Japan Economic Partnership Agreement is effective since February 1, 2019. It provides for immediate customs duties removal for more than 90% of EU and Japanese originating products. Tariffs applied on other products will gradually be eliminated over a period of up to 20 years for Japan and 16 years for the EU.

Largely welcomed by the trade community, this agreement suffered from implementation troubles at the start, which were rapidly discussed by the EU-Japan Agreement Monitoring Committee. Sensitive topics such as the respect of origin acquisition criteria and the importer's knowledge were addressed in a communication from the EU Commission in August 2019. Solutions found by both parties aim at ensuring the largest use of the benefits offered by the Agreement.

Another difficult topic was the retrospective solicitation of the preferential treatment for goods imported in the EU, i.e. benefiting from a duty exemption weeks after the goods were actually imported. The agreement does indeed not provide for the presentation of the certificate of origin retrospectively.

However, in September 2019, French Customs Authorities communicated on their website that even if the agreement does not explicitly provide for this approach, the EU Customs Code made possible a retrospective request for preferential treatment, for imports into the EU only, on the basis of article 116, 116 and 121 UCC.

It is therefore possible for EU importers of Japanese products to apply for preferential origin retrospectively (for imports passed since 1 February 2019), naturally by providing a proof of preferential origin.

As a reminder, benefit for preferential treatment requires the provision of:

- The declaration stating the Japanese origin of the products
- A valid certificate of origin
- Commercial and other documents such as provided in article 3.21 of the Agreement's Protocol on Rules of Origin

DS Avocats Customs & Trade team is at your disposal to provide you with any additional information.

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