

## **A Brief on the Philippines' and ASEAN Free Trade Agreements**

### **INTRODUCTION**

As the multilateral trade talks proceed at a snail's pace, more and more countries press ahead with bilateral free trade agreements (FTAs) to gain wider global market access and strengthen links with strategic trading partners. The Philippines is one of these countries which set out to realize the potential benefits of being able to access a much larger market as a destination for its exports and a source of its import needs. At the beginning of 2010, free trade agreements with China, South Korea (hereafter Korea), Australia, New Zealand, and Japan entered into full force.

Japan, China, and Korea are the country's top trading partners while Australia and New Zealand are two of its major development partners. Australian aid to the Philippines increased significantly in the last three years, making Australia the country's second largest bilateral grant aid donor after Japan.<sup>1</sup> Japan is the Philippines second largest trading partner, absorbing \$7.5 billion of the country's exports and supplying \$6.8 billion of its import needs followed by China, which yielded \$5 billion worth of export earnings for the country and supplied \$4 billion worth of Philippine imports. Korea, on the other hand, is the country's 7<sup>th</sup> largest trading partner, accounting for 4% and 6% of the country's exports and imports, respectively.

As respectable as these trade figures are, it appears that there are copious opportunities that the country has yet to take advantage of given the affluence, vastness and the dynamism of these markets. China, for instance, is an \$8.8 trillion market and accounts for 6% or \$792 billion of the world's imports and 8% or \$969 billion of the world's exports. Japan, Korea, Australia and New Zealand are among the richest economies in the world with gross domestic product (GDP) per capita of \$32,600, \$27,700, \$38,500, and \$27,700, respectively. Inking a free trade pact with these countries is a way of better positioning the country to take advantage of a wide range of opportunities present in these markets.

Moreover, by facilitating the removal of both tariff and non-tariff barriers, these free trade agreements are expected to deepen the Philippines' economic linkages with its strategic economic partners, promote finer division of labor resulting in enhanced economic efficiency and competitiveness, and enlarged market with greater opportunities and larger economies of scale that will make the country immensely attractive to capital and talent.

Below is a brief discussion of the salient points in these FTAs:

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<sup>1</sup> See <http://www.uactphilippines.org/images/stories/uact/research/asean-australia-new%20zealand%20primer%28website%29-1.pdf>

## I. ASEAN-ASEAN Free Trade Agreement

### A. Coverage and Modalities of the Agreement

- The ASEAN-China free trade agreement (ACFTA) covers trade in goods, services, and investments. It also aims to facilitate greater cooperation in a broad range of areas with a view to enhancing trade facilitation, increasing the competitiveness of small and medium enterprises (SMEs), and promoting electronic commerce, capacity building, and technology transfer.
- The ASEAN-China free trade pact on trade in goods came into effect in July 2005. As specified in the agreement, all parties committed to reduce or eliminate tariffs based on the following schedules:
  - i. Early Harvest Programme (EHP). The EHP was implemented on 1 January 2004, although the Philippines put it into force only on 29 January 2005. Under this programme, all products at 8/9 digit level in HS Chapters 01-08 shall be duty-free not later than 1 January 2006. These include: live animals, meat and edible meat offal, fish, dairy produce, other animal products, live trees, edible vegetables, and edible fruits and nuts.

Products with applied Most Favoured Nation (MFN) tariff rates higher than 15% are given until 2006 to be duty-free, while those with duties between 5% and 15% are scheduled for tariff elimination not later than 1 January 2005. Products with tariffs below 5% are subject to immediate tariff elimination.

Product category	Not later than 1 January 2004	Not later than 1 January 2005	Not later than 1 January 2006
With applied MFN tariff rates higher than 15%	10%	5%	0%
With applied MFN tariff rates between 5% and 15%	5%	0%	0%
With applied MFN tariff rates below 5%	0%	0%	0%

ii. Normal Track. Tariffs on products that are placed under this category will be gradually reduced and eliminated in accordance to the modalities set by the Agreement. For ASEAN 6, which includes the Philippines and China, the modalities for tariff reductions are:

X=Applied MFN Tariff Rate	ACFTA Preferential Tariff Rate			
	2005	2007	2009	2010
$X \geq 20\%$	20	12	5	0
$15\% \leq x < 20\%$	15	8	5	0
$10\% \leq x < 15\%$	10	8	5	0

5% < x < 10%	5	5	0	0
X ≤ 5%	Standstill		0	0

iii. *Sensitive Track*. ASEAN 6 and China are entitled to designate up to 400 tariff lines at the HS 6-digit level and 10% of the total import value as sensitive product, based on 2001 trade statistics. Tariff rates on products under the Sensitive Track shall be reduced to 20% by January 2012 down to 0%-5% by 1 January 2018.

The Philippines' Sensitive Products are edible vegetables, plastics and articles thereof, articles of apparel and clothing, and vehicles other than railway. For China, these are paper and paper board, pineapples, coconut juice, tobacco, photographic and cinematographic materials, ignition wiring sets for motor vehicles, vehicles other than railway, and ships and boats, among others.

- The ASEAN-China free trade pact on trade in services entered into force on 1 July 2007. Both ASEAN and China agreed to progressively liberalize trade in services with substantial sectoral coverage.

China committed to open up new markets for the ASEAN countries in construction, environmental protection, transportation, sports, commerce, computer and related services, real estate services, other business services, construction and related engineering services, environmental services, recreational, cultural, and sporting services, and transport services.

ASEAN committed to open up their markets to China in finance, telecommunication, education, tourism, construction and medical treatment, among others.

#### *B. ACFTA Tariff Treatment of RP'S Exports to and Imports from China*

- A wide variety of products are being exported to and imported from China by the Philippines. The cost of exporting to and importing these products from China will be significantly pruned as tariffs on virtually all of these products have come down to zero since 1 January 2010 under the ACFTA, as can be gleaned from the table below.

<b>Exports to China</b>	<b>Tariff, 2010</b>	<b>Imports from China</b>	<b>Tariff, 2010</b>
Semiconductors	0	Electronic data processing	0
Electronic data processing	0	Semiconductors	0
Automotive parts	0	Medical/industrial instrumentation	0
Office equipment	0	Telecommunications	0
Consumer electronics	0	Consumer electronics	0
Communication and radar	0	Communication and radar	0
Metal machinery/equipment apparatus	0	Office equipment	0
Machineries/equipment/apparatus	0	Machineries/equipment/apparatus	0

Oleochemicals	0	Metal machinery/equipment apparatus	0
Petrochemicals	0	Automotive parts	X
Plastic-based packing products	0	Iron and steel	X
Inorganic chemicals	0	Copper manufactures	0
Metal-based construction materials	0	Other metal manufactures	0
Cooper manufactures	0	Metal-based construction materials	0
Natural rubber	X	Sanitary wares and bathroom fixtures	0
Petroleum products	0	Clay and ceramic materials	0
Textile yarns, twine and cordages	0	Organic chemicals	0
Seaweeds	0	Inorganic chemicals	0
Lumber	0	Fertilizers manufactured	0
Nickel and nickel ores	0	Oleochemicals	0
Chrome ores	0	Petrochemicals	0
Coconut oil	0	Dyeing, tanning and coloring materials	0
Fresh fruits	0	Glass-based packaging products	0
Confectionery and honey	0	Metal-based packaging products	0
Fresh fruits	0	Plastic-based packaging products	0
Processed fruits	0	Paper-based packaging products	0
Notes: i. These only include exports to and imports from China valued at least \$2 million ii. Not all items under these broad product categories are accorded the same tariff treatment. <u>See the Tariff Commission via <a href="http://www.tariffcommission.gov.ph/">http://www.tariffcommission.gov.ph/</a> for the tariff commodity classification of the specific product you are interested in or request for one if you do not know the classification of the product yet, and check ACFTA Agreement thru <a href="http://www.aseansec.org/19105.htm">http://www.aseansec.org/19105.htm</a> for the corresponding tariff treatment of said product item.</u> iii. X indicates that tariff will be gradually eliminated			

### C. Non-Tariff Barriers

- A key feature of the trade in goods agreement is the removal of quantitative restrictions and the elimination of non-tariff barriers. Notwithstanding, there are a slew of non-tariff measures (NTMs) in the form of customs surcharges, and technical regulations and product characteristic requirements that could increase the cost of transacting with China.
- According to Trade Analysis and Information System (TRAINS)/United Nations Conference on Trade and Development (UNCTAD), China has six different types of NTMs: authorization; global quotas; test for human health; test for plant health; test for animal health; and test for other purposes. Under technical measures, testing, inspection and quarantine requirements account for nearly 50% of China's NTMs affecting both agricultural and industrial goods.<sup>2</sup>

<sup>2</sup> See

[http://www.searca.org/web/e\\_library/asian%20journal%20of%20agriculture%20and%20development%20\(vol3no%201&2\)/ajad-v3-n1-n2-pasadilla-non-tariff-measures-faced-by-philippine-agricultural-](http://www.searca.org/web/e_library/asian%20journal%20of%20agriculture%20and%20development%20(vol3no%201&2)/ajad-v3-n1-n2-pasadilla-non-tariff-measures-faced-by-philippine-agricultural-)

- The Chinese Government strictly monitors the content or volume of certain regulated goods through an import license system. On 1 April 2007, the import licensing requirement on 338 categories of products has been relaxed with Chinese importers required to apply for an 'automatic import license'. China's Ministry of Commerce and the General Administration of Customs are responsible for determining the products included in the Merchandise Catalogue of Permitted Automatic Import Goods.<sup>3</sup>
- Specifically, any packaged good imported into China must satisfy its labelling requirements, which include the name of the food, the list of ingredients, the net contents, weight, name and address of the manufacturer and distributor, date, storage instructions, quality grades, and whether the package contains irradiated foods or genetically modified foods. Labelling for energy and nutrients, batch identification, and product instructions are voluntary.<sup>4</sup>
- Philippine exporters have been complaining about China's lack of transparency in the testing methods, discriminatory treatment and enforcement of standards, and long process of certification.<sup>5</sup> Affectedly greatly by these non-tariff barriers are the Philippines' exports of coconut oil, margarine, cigarettes, and bovine animals.
- As regards the non-tariff measures faced by products imported into the Philippines and other ASEAN countries, see <http://www.aseansec.org/economic/aftha/faqs.htm> and [http://www.philexport.ph/doing\\_bus\\_phil.html](http://www.philexport.ph/doing_bus_phil.html).

#### *D. Rules of Origin*

- To be eligible for preferential concessions the goods must be wholly obtained/ produced or have at least 40% of its content originating from the participating parties. The total value of the materials, part or produce originating from a non-Party must not exceed 60% to be entitled to the preferential treatment. For further information on ROO see [http://www.thaifta.com/thaifta/Portals/0/File/storyboard/ascn\\_roo.pdf](http://www.thaifta.com/thaifta/Portals/0/File/storyboard/ascn_roo.pdf).
- A claim that products shall be accepted as eligible for preferential concession shall be supported by a Certificate of Origin issued by a government authority designated by the exporting Party and notified to the other Parties to the Agreement.
- In the case of the Philippines, a preferential Certificate of Origin (**Form E**) is issued by the Bureau of Customs. The preferential CO is different from the ordinary CO issued by chambers, which only certifies the country

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exports-in-east-asia.pdf

3 See <http://www.asiapacific.ca/sites/default/files/filefield/ChinaFoodTrade.pdf>

4 See <http://www.asiapacific.ca/sites/default/files/filefield/ChinaFoodTrade.pdf>

5 See <http://siteresources.worldbank.org/INTEAPREGTOPINTECOTRA/Resources/579386-1145902243289/Philippines-John-6-27.pdf>

of origin of a particular product and does not qualify for any preferential treatment.

## II. JAPAN-PHILIPPINES ECONOMIC PARTNERSHIP AGREEMENT (JPEPA)

### A. Coverage and Modalities of the Agreement

- Enforced in December 2008, the Japan-Philippines economic partnership agreement goes beyond the scope of the conventional trade agreement, which covers mainly trade in goods and services. It spans areas such as bilateral cooperation, investment, government procurement, competition, and business environment.
- Under the Agreement, products are placed under several staging categories. Products that fall under category A are subject to immediate tariff elimination while tariff rates on products under categories B3, B5, B7, B10, B11, and B15 shall be phased out in four, six, eight, eleven, and sixteen equal annual instalments, respectively, from the date the Agreement came into effect. Products under category X are excluded from any tariff concession while those under category R will be subject to renegotiation.

Japan's JPEPA Tariff Schedule			
Legend	Category	Number of Lines	% of Total Lines
A	Immediate tariff elimination	5,994	80.17
B3	3 years or 4 equal annual installments	30	.04
B5	5 years or 6 equal annual installments	148	1.98
B7	7 years or 8 equal annual installments	140	1.87
B10	10 years or 11 equal annual installments	368	4.92
B15	15 years or 16 equal annual installments	48	0.64
P	Special tariff treatment	26	0.35
Q	Tariff Rate Quota	11	0.15
R	Renegotiations	215	2.88
X	Excluded from any commitment of preferential treatment or renegotiation.	522	6.98
Source: Tariff Commission			

Philippines' JPEPA Tariff Schedule			
Legend	Category	Number of Lines	% of Total Lines
A	Immediate tariff elimination	3,947	66.14
B4	Equal annual tariff reduction starting 2006, final reduction on 2010	97	1.63
B4**	Tariff elimination on the 1st day of	2	0.03

	f the 5th year (2011)		
B5	5 years or six annual installments	230	3.85
B5*	5 years, 1 year grace period, 5 equal annual installments	220	3.69
B5**	One single installment at the beginning of the 6th year	14	0.23
B7	7 years or 8 equal annual installments	2	0.03
B10	10 year or 11 equal annual installments	1,077	18.05
B10*	10 years, 1 year grace period, 6equal annual installments	154	2.58
B10**	10 years, 5 years grace period, 6equal annual installments	103	1.73
R	Renegotiation	24	0.4
S	Special tariff treatment	92	1.54
X	Excluded from any commitment of preferential treatment or renegotiation	6	0.1
Source: Tariff Commission			

- Almost 60% of the Japanese imports of agricultural and fishery products will be duty-free within 10 years. Duties of 10% to 20% on small bananas and other kinds (depending on the kind and form of the exported material) will be eliminated over 11 years.
- Products that are excluded from any tariff reduction commitment by Japan are Pacific salmon, bluefin tunas, rice, wheat, milk and cream, and meat of bovine animals, among others, while the Philippines excluded salt and rice from any tariff reduction commitment and allowed for renegotiation on petrochemicals and other chemicals.
- Both sides will eliminate the tariffs on almost all industrial goods within 10 years from the day of entry into force of the JPEPA.

#### *B. JPEPA Tariff Treatment of RP's Exports to and Imports from Japan*

- Under the JPEPA, almost 95% of Philippine exports to Japan (in terms of value) and 66% of the country's imports from Japan will face zero duties on the day the Agreement took effect.
- Industrial goods represent 93% of Philippine export good that are given immediate duty-free access to Japan. These include: office machines & automatic data processing machines, electrical machinery and parts, road vehicles, telecommunication and sound recording equipment, textile yarn fabrics and clothing apparels (e.g. knitted and crocheted fabrics) and inorganic chemicals and pharmaceutical products.
- Philippine farm products that gain immediate tariff-free entry to the Japanese market are: shrimps & prawns, asparagus, leguminous vegetables, dried bananas, guavas, mangoes, mangosteens, fresh

papayas, coconut (copra) refined or unrefined, dried durians, jackfruit, rambutan as well as in manufactured goods like knitted and crocheted fabrics.

<b>RP Exports to Japan</b>	<b>Tariff, 2010</b>	<b>RP Imports from Japan</b>	<b>Tariff, 2010</b>
Semiconductors	0	Semiconductors	0
Electronic data processing	0	Electronic data processing	0
Control and instrumentation	0	Office equipment	0
Communication and radar	0	Control and instrumentation	0
Telecommunications	0	Telecommunications	0
Automotive electronics	0	Consumer electronics	0
Consumer electronics	0	Communication and radar	0
Metal machinery/equipment apparatus	X	Medical and industrial instrumentation	X
Machineries/equipment/apparatus	X	Metal machinery/equipment apparatus	X
Automotive parts	X	Machineries/equipment/apparatus	0
Copper manufactures	X	Automotive parts	X
Construction materials, metal based	X	Iron and steel	X
Sanitary wares and bathroom fixture	X	Copper manufactures	X
Inorganic chemicals	0	Metal-based construction materials	X
Oleochemicals	X	Clay and ceramic materials	X
Petrochemicals	X	Cement/cement product	X
Active carbon	X	Organic chemicals	X
Plastic-based packaging products	X	Inorganic chemicals	X
Men's/Boy's Wear	0	Fertilizers, manufactured	X
Women's/Girl's Wear	0	Petrochemicals	X
Basketwork/Wickerwork	X	Dyeing, tanning and coloring materials	X
Articles of textile materials	0	Metal-based packaging products	X
Jewelry	X	Plastic-based packaging products	X
Leathergoods	X	Medical supplies	X
Parts of furniture	X	Paper and paper-based products	X
Processed fruits	X	School and office supplies	X
Sugar and sugar preparations	X	Sporting goods	X
Fresh fruits	X	Copper ores and concentrate	X
Fresh vegetables	X	Textile yarn, twine and cordages	X
Tuna	X	Petroleum products	X
Crustaceans	X	Non-metallic mineral	X
Mollusk	X		
33. Coconut oil	X		
34. Gold from copper ores	X		
35. Copper ores and concentrate	X		

36. Plywood and veneer	X		
37. Textile yarn, twines and cordages	0		
38. Mineral metallic	X		
39. Petroleum products	X		

Notes: i. These only include exports/imports to/from Japan valued at least USD5 million based on 2006 DTI data.

ii. Not all items under these broad product categories are accorded the same tariff treatment. See the Tariff Commission via <http://www.tariffcommission.gov.ph/> for the tariff commodity classification of the specific product you are interested in or request for one if there is none yet, and check JPEPA Agreement thru <http://www.dti.gov.ph/dti/index.php?p=642> for the corresponding tariff treatment of said product item.

iii. X indicates that tariff will be gradually eliminated or excluded from any tariff reduction commitment

### *C. Non-Tariff Barriers*

- The JPEPA covers bilateral cooperation in customs procedures and mutual recognition. The Parties will set out to simplify and harmonize customs procedures, including maximizing the use of information and communication technology (ITC). Both sides shall also accept the results of conformity assessment procedure conducted by the other party.
- According to the TRAINS, Japan maintains over 1,500 NTMs, 85% of which target agricultural imports. Tariff quotas, variable charges, and health measures dominate Japan's NTMs. Requirements include adherence to a positive list of approved food additives, maximum residue limits (MRL) on particular pesticides, specific treatments, and Japanese language labelling.<sup>6</sup> Japan sets about 97,000 limitation standards on 135 kinds of foodstuffs and 724 kinds of pesticides.<sup>7</sup> The Philippine exports affected by these NTMs include live animals, ornamental fish, tuna, smoked fish, frozen crabs, frozen shrimps, and seaweeds, among others.
- The Department of Agriculture (DA), Philippines provides some information on Japan's technical requirements for the entry of imported goods. The DA noted that Japan imposes a stricter MRL for those products that the Philippines can now import freely under the JPEPA like okra, asparagus, and mangoes.<sup>8</sup>
- Other requirements/standards that food exporters have to meet in entering the Japanese market are: 1.) Japan's metabisulfide standard of 50 parts per million (ppm), whereas EU's is 1000ppm and US' is 200 ppm; 2.) vapor heat treatment (VHT) for fresh fruits; and 3.) numerous quality

6 See

[http://www.searca.org/web/e\\_library/asian%20journal%20of%20agriculture%20and%20development%20\(vol3no%201&2\)/ajad-v3-n1-n2-pasadilla-non-tariff-measures-faced-by-philippine-agricultural-exports-in-east-asia.pdf](http://www.searca.org/web/e_library/asian%20journal%20of%20agriculture%20and%20development%20(vol3no%201&2)/ajad-v3-n1-n2-pasadilla-non-tariff-measures-faced-by-philippine-agricultural-exports-in-east-asia.pdf)

7 See <http://www.asiapacific.ca/sites/default/files/filefield/ChinaFoodTrade.pdf>

8 See <http://www.uactphilippines.org/images/stories/uact/research/jpepa-primer2009.pdf>

standards for food and other consumer products that are not anymore considered by the WTO SPS agreement as a health and safety risk.<sup>9</sup>

#### *D. Rules of Origin*

- Separate product specific rules have been outlined under the JPEPA. The product specific rules using the value-added method require that the qualifying value content (QVC) of a good should not be less than the percentage specified by the rule for that good. Some examples of the computation on whether a good qualifies as originating is available in the website of Japan's Ministry of Foreign Affairs. See also <http://www.uactphilippines.org/images/stories/uact/research/jpepa-primer2009.pdf>.
- Supporting the claim that the product is eligible for preferential concessions is the issuance of a preferential CO (**Form JP**), which is required at the time of import declaration, although importers may defer to submit a CO provided they can present unavoidable reasons for deferment subject to the approval of the Director- General of regional customs such as disaster, or when the Director-General of regional customs approves to release the goods prior to import permission in exchange for security submission.<sup>10</sup>
- The Certificate has to be issued based on the declaration by the exporter or its authorized agent that it is an originating good in accordance with the provisions of Chapter 3 of the Agreement. The issued certificate of origin shall be valid for 12 months from the date of issue.
- Importers are not required to submit a certificate of origin in relation to an importation of a consignment of a good whose aggregate customs value does not exceed 200,000 yen.

### **III. ASEAN-Korea Free Trade Agreement (AKFTA)**

#### *A. Coverage and Modalities of the Agreement*

- The Framework Agreement on Comprehensive Economic Cooperation was signed by the ASEAN Member States and the Republic of Korea on 13 December 2005 and came into effect in December 2006.
- The Framework Agreement aims to establish a Korea-ASEAN Free Trade Area by progressively liberalizing and promoting trade in goods and services and creating a transparent, liberal and facilitative investment regime.

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<sup>9</sup> See <http://www.uactphilippines.org/images/stories/uact/research/jpepa-primer2009.pdf>

<sup>10</sup> See [http://www.customs.go.jp/english/c-answer\\_e/keizairenkei/4034\\_e.htm](http://www.customs.go.jp/english/c-answer_e/keizairenkei/4034_e.htm)

- The Korea-ASEAN Trade in Goods Agreement, which was signed in 2006, prescribes the elimination of tariffs on almost all goods. Korea is scheduled to complete the tariff elimination by 2010 while ASEAN also committed to do the same but with flexibility for 5% of their products which will be subject to complete tariff phase out in 2012.

X = Applied MFN Rate	ASEAN-Korea FTA Preferential Tariff Rate (not later than 1 January)				
	2006	2007	2008	2009	2010
X > 20%	20	13	10	5	0
15% ≤ x < 20%	15	10	8	5	0
10% ≤ x < 15%	10	8	5	3	0
5% < x < 10%	5	5	3	0	0
X ≤ 5%	Standstill			0	0

- Normal Track. Korea shall eliminate its tariffs for at least 70 % of the tariff lines placed in the Normal Track upon the entry into force of the Agreement. By 1 January 2008, at least 95% of Korea's tariff lines placed in the Normal Track shall be free of duty and by 2010 all products are accorded duty free access to the Korean market.

For ASEAN 6, at least 50% of their tariff lines placed in the Normal Track should be free of duty not later than 1 January 2007 to rise to 90% by 1 January 2009. By 2010, ASEAN 6 shall eliminate its tariffs for all tariff lines, with flexibility for not more than 5% of all the tariff lines, scheduled to be eliminated not later than 1 January 2012.

- Sensitive Track. Korea and ASEAN 6 may place 10% of their total tariff lines and 10% of the total value of imports from Korea or from ASEAN member countries under the Sensitive Track based on 2004 trade statistics. Tariff lines under the Sensitive Track shall be further classified into Sensitive List and Highly Sensitive List.

The Highly Sensitive List is limited to 200 tariff lines at the HS 6-digit level or 3% of all the tariff lines at the HS digit of each Party's own choice and 3% of the of the total value of imports from Korea or from the ASEAN Member Countries as a whole, as appropriate, based on 2004 trade statistics. Tariff rates on these products shall be capped to 50%, reduced to 20% , reduced by 50%, subject to TRQs, or exempted from any tariff concession.

Applied MFN rates on products placed under the Sensitive List shall be reduced to 20% not later than 1 January 2012. These tariff rates shall be subsequently reduced to 0-5% not later than 1 January 2016.

The Philippines placed under the Sensitive List and Highly Sensitive List several items of live animals, meat and edible meat offal, fish and crustaceans, edible vegetables, coffee, tea, cereals, animal or vegetable fats and oils, coconut oil, preparations of meat, fish or of crustaceans, soap, vehicles other than railway, articles of iron and steel, iron and steel, and plastics and articles thereof, among others.

Under Korea's Sensitive List and Highly Sensitive List are: meat and edible meat offal, dairy produce, fish and crustaceans, live trees, edible vegetables, edible fruits, starches, preparations of vegetables, fruits, nuts, beverages, organic chemicals, mineral fuels, wood and articles of wood, plastics and articles thereof, wool, cotton, and vehicles other than railway, among others.

- Under the Korea-ASEAN Trade in Services Agreement, signed in 2007, the parties to the Agreement made many liberalization commitments that are higher than the commitments they made under the General Agreement on Trade in Services of the World Trade Organization.

*B. Tariff Treatment of RP'S Exports to and Imports from Korea under the AKFTA*

- By 2010, 90% of the Philippines' exports to Korea are accorded duty-free entry while 85% of the country's imports from Korea shall enter the Philippines free of duty. The bulk of the products subject to gradual tariff reduction are agricultural products.

<b>RP Exports to Korea</b>	<b>Tariff, 2010</b>	<b>RP Imports from Korea</b>	<b>Tariff, 2010</b>
Semiconductors	0	Semiconductors	0
Electronic data processing	0	Electronic data processing	0
Office equipment	0	Communication and radar	0
Telecommunications	0	Telecommunications	0
Consumer electronics	0	Consumer electronics	0
Machineries/equipment/apparatus	0	Machineries/equipment/apparatus	0
Metal machineries/equipment/apparatus	0	Metal machineries/equipment/apparatus	0
Automotive parts	X	Motor vehicles	X
Iron and steel	0	Automotive parts	X
Copper manufactures	0	Iron and steel	X
Construction materials, metal based	0	Copper manufactures	0
Asbestos materials	0	Metal-based construction materials	0
Oleochemicals	X	Organic chemicals	X
Petrochemicals	x	Inorganic chemicals	X
Men's/boy's wear	0	Fertilizers	0
Women's/girl's wear	0	Oleochemicals	0
Paper and other paper-based products	0	Petrochemical	0
Soap and detergents	0	Dyeing, tanning and coloring materials	0

Cereal and four preparations	X	Plastic-based packaging materials	0
Processed fruits	X		
Nuts and coconut products	X		
Animal feeding stuff	X		
Fresh fruits	X		
Crustaceans	X		
Mollusk	X		
Coconut oil	X		
Tobacco, unmanufactured	x		
Cigar	X		
Marble products	0		
Textile yarn, twines and cordages	0		

Notes: i. These only include exports/imports to/from Korea valued at least USD2 million based on 2006 DTI data.

ii. Not all items under these broad product categories are accorded the same tariff treatment. See the Tariff Commission via <http://www.tariffcommission.gov.ph/> for the tariff commodity classification of the specific product you are interested in or request for one if there is none yet, and check Korea-ASEAN FTA Agreement thru <http://www.aseansec.org/akfta.htm> for the corresponding tariff treatment of said product item.

iii. X indicates that tariff will be gradually eliminated or excluded from any tariff reduction commitment

### *C. Non-tariff Barriers*

- Under the AKFTA, the Parties agreed to facilitate cooperation and exchange of information regarding customs procedures, ICT, and standard and conformity assessment and sanitary and phytosanitary measures.
- About 95% of Korea's NTMs deal with agricultural commodities. Quantitative restrictions are imposed on particular agricultural and fishery products via its import licensing system. Securing the approval for processed food products without unapproved additives takes about three to ten days, while the processing may take between six to twelve months for those with unapproved additives. Imported foods recognized as safe by the Korean Food and Drug Administration Commissioner are exempted from mandatory MRL-related laboratory testing that would otherwise cost the importer US\$500.<sup>11</sup>
- Philippine exports that are faced with South Korea's NTMs are: floppy disk drives; mangoes, papaya, coconut water, and pharmaceuticals. South Korea imposes quarantine requirement on imported fresh coconut, banana, pineapples, shrimps and prawn affecting their marketability. Bananas,

<sup>11</sup> See

[http://www.searca.org/web/e\\_library/asian%20journal%20of%20agriculture%20and%20development%20\(vol3no%201&2\)/ajad-v3-n1-n2-pasadilla-non-tariff-measures-faced-by-philippine-agricultural-exports-in-east-asia.pdf](http://www.searca.org/web/e_library/asian%20journal%20of%20agriculture%20and%20development%20(vol3no%201&2)/ajad-v3-n1-n2-pasadilla-non-tariff-measures-faced-by-philippine-agricultural-exports-in-east-asia.pdf)

pineapples, shrimps and prawns also have to be quarantined. Philippine fresh mangos and papayas were once banned because they were thought to contain the oriental fruit fly.<sup>12</sup>

- Exporters of other countries are also complaining of trade barriers in other sectors: banking, chemicals, cosmetics, financial services, insurance, legal services, media, medical devices, pharmaceuticals and real estate.

#### *D. Rules of Origin*

- To be eligible for preferential tariff concessions, the good must be wholly obtained or must have an RVC of at least 40% or a change in tariff classification at four digit-level of the Harmonized system. For further information see [http://www.fta.gov.sg/fta\\_akfta.asp?hl=3](http://www.fta.gov.sg/fta_akfta.asp?hl=3).
- To apply for a preferential CO (**Form AK**) as needed to support the claim of product eligibility, see [http://cert.korcham.net/english/co/03\\_03.jsp](http://cert.korcham.net/english/co/03_03.jsp).

### **IV. ASEAN-AUSTRALIA/NEW ZEALAND Free Trade Agreement (AANZFTA)**

#### *A. Coverage and Modalities of the Agreement*

- The AANZFTA was signed on 27 February 2009 and entered into force on 1 January 2010. It covers trade in goods, services, investments, temporary movement of business people, economic cooperation, electronic commerce, and intellectual property, among others.
- Under the AANZFTA, the Philippines committed to eliminate tariffs on 60.3% of its tariff lines by 2010 while Australia and New Zealand are bound to remove duties on 96% and 90.3% of their tariff lines, respectively, during same year. By 2020, all products shall enter duty-free to Australia and New Zealand while only less than 5% of the Philippines' tariff lines continue to have tariff protection.

Percentage of Tariff Lines with Tariff-Free Treatment					
	2005 Base Tariff (%)	2010	2013	Final Tariff Elimination	Year Achieved
Philippines	3.9	60.3	91	94.6	2020
Australia	47.6	96.4	96	100	2020
New Zealand	58.6	84.7	90.3	100	2020

- As of 1 January 2010, 91% of the Philippines tariff lines have duties within the range 0-5% compared with 91 and 97% for New Zealand and Australia, respectively. For the Philippines, these are: meat and livestock, fish, dairy products, grain, vegetables, mineral products, and pharmaceutical products,

12 See <http://siteresources.worldbank.org/INTEAPREGTOPINTECOTRA/Resources/579386-1145902243289/Philippines-John-6-27.pdf>

among others. For Australia, these are furniture, inorganic and organic chemicals, fine and costume jewelry, and beverages, among others. For New Zealand, these are beverages, minerals, fine and costume jewelry, processed food, and basket ware.

Percentage of Tariff Lines with Tariffs in the 0-5% Range						
	2005 Base Tariff (%)	2010	2013	2017	2020	2025
Philippines	57.2	91.3	94.5	95.7	96.5	100
Australia	86.2	96.7	96.8	97.6	100	100
New Zealand	65.4	91.3	94.6	98.3	100	100

- Tariff lines that are excluded from tariff commitments are to be kept at a minimum and shall not exceed 1% of a Party's total tariff lines. Tariff lines wherein duties will not be eliminated and are not part of the exclusion list will have their tariffs bound at the base year or will be subjected to tariff reductions.
- In trade in services, the Philippines made commitments in professional services, educational services, financial services, tourism and travel services, and telecommunications. Australia, on the other hand, made commitments in health-related and social services, computer and related services, accounting, audit and bookkeeping services, and legal services, among others while New Zealand made commitments in engineering services, taxation services, and veterinary services, among others.

*B. Tariff Treatment of RP'S Exports to and Imports from Australia under the AANZFTA*

- Products of export interest to the Philippines that shall have immediate tariff-free access to Australia and New Zealand are: processed food, beverages, inorganic/organic chemicals, leathersgoods, footwear, basketware, ceramics, fine and costume jewelry, appliances, auto and auto parts, ships and boats, furniture, women's, undergarment, cotton jackets/blazers/dresses/skirts/trousers/blouses/ night dresses, overcoats of wool, trousers of synthetic fiber, hosiery, socks, gloves, shawls, ties.
- The Philippines will have duty-free importation of a vast majority of industrial goods, excluding iron and steel, plastics, and auto parts from Australia and New Zealand. As in other FTAs of the Philippines, a large number of agricultural products will be subject to gradual tariff elimination, with rice and sugar excluded from any tariff concession.

RP Exports to Australia	Tariffs, 2010	RP Imports from Australia	Tariffs, 2010
Petroleum products	X	Copper manufactures	0
Semiconductor	0	Plastic-based packaging products	0
Electronic data processing	0	Dyeing, tanning and coloring materials	0
Telecommunications	0	Organic chemicals	0

Automotive electronics	0	Inorganic chemicals	0
Consumer electronics	0	Iron and steel	X
Communication and radar	0	Construction materials, metal based	0
Machineries/Equipment/Apparatus	0	Electronic data processing	0
Automotive parts	X	Telecommunication	0
Asbestos materials	0	Natural oils, fats, and waxes	0
Inorganic chemicals	0	Lumber	0
Oleochemicals	0	Plywood and veneer	X
Glass-based packaging products	0	Copper ores and concentrate	0
Men's/boy's wear	X	Cereals	X
Jewelry	0	Fresh fruits	X
Wood furniture	0	Animal feeding stuff	0
Paper and other paper-based products	X	Miscellaneous edible preparations	X
Pharmaceutical products	0	Live animals, chiefly for food	X
Medical supplies	X	Fresh meat	X
Sporting goods	0		
Cameras and lenses	0		
Cereal and flour preparations	X		
23. Processed fruits	0		
24. Processed nuts and coconut products	0		
25. Nickel and nickel ores	0		
26.. Textile yarns, twines and cordages	0		
27. Carrageenan	X		

Notes: i. The only include exports to and imports from Australia valued at least USD2 million based on 2006 DTI data

ii. Not all items under each of these broad product categories are accorded the same tariff treatment. See the Tariff Commission via <http://www.tariffcommission.gov.ph/> for the tariff commodity classification of the specific product you are interested in or request for one if there is none yet, and check ASEAN-Australia/New Zealand FTA Agreement thru <http://www.aseansec.org/22258.htm> for the corresponding tariff treatment of said product item.

iii. X indicates that tariff will be gradually eliminated or excluded from any tariff reduction commitment

RP Exports to New Zealand	Tariffs, 2010	RP Imports from New Zealand	Tariffs, 2010
Processed fruits	X	Paper and other paper-based products	0
Fresh fruits	X	Processed vegetables	X
Petroleum products	X	Processed cocoa	X
Telecommunications	0	Beverages	0
Automotive parts	0	Animal feeding stuff	X

Inorganic chemicals	0	Miscellaneous edible preparations	X
Machineries/Equipment/Apparatus	0	Fresh meat	X
Animal feeding stuff	0	Fresh fruits	X
Women's/Girl's wear	0	Lumber	0
Furniture	0	Plywood and veneer	0
Fashion accessories	0	Natural oils, fats and waxes	X
Carrageenan	0	Electronic data processing	0
Semiconductor	0	Communication and radar	0
Office equipment	0	Metal machinery/equipment/apparatus	0
Oleochemicals	0	Transport equipment	X
16. Petrochemicals	0	Metal manufactures	0
17. Dairy products and bird's eggs	0	Chemicals	0
		Plastic-based packaging products	0
<p>Note: i. These only include exports to and imports from New Zealand valued at least USD500,000 based on 2006 DTI data</p> <p>ii. Not all items under each of these broad product categories are accorded the same tariff treatment. See the Tariff Commission via <a href="http://www.tariffcommission.gov.ph/">http://www.tariffcommission.gov.ph/</a> for the tariff commodity classification of the specific product you are interested in or request for one if there is none yet, and check ASEAN-Australia/New Zealand FTA Agreement thru <a href="http://www.aseansec.org/22258.htm">http://www.aseansec.org/22258.htm</a> for the corresponding tariff treatment of said product item.</p> <p>iii. X indicates that tariff will be gradually eliminated or excluded from any tariff reduction commitment</p>			

### C. *Non-tariff Barriers*

- One of the expected outcomes of the AANZFTA is the progressive elimination of non-tariff barriers. This augurs well for Philippines whose food exports are being held back by the strict and protracted quarantine procedures set by the Australian Quarantine and Inspection Service (AQIS).
- The Philippines is complaining of delays in Australia's Import Risk Analysis (IRA) of Philippine fruits. IRA is part of Australia's SPS measures to ensure that the country's bananas and pineapples are not infested affecting Australian crops. Australia already barred the entry of Philippine pineapples on the claim that the pineapple crowns serve as “breeding grounds of disease”. Philippine mango imports were also restricted as they were found to contain the pulp weevil pests.<sup>13</sup>
- The Philippine Bureau of Plant Industry took the necessary corrective measures to comply with Australia requirements but the approval of AQIS came after several years. Other issues confronting Philippine exporters are requirements for steam treatment for feed grain, and restrictions of sauces containing benzoic acids.

13 See <http://siteresources.worldbank.org/INTEAPREGTOPINTECOTRA/Resources/579386-1145902243289/Philippines-John-6-27.pdf>

- Similarly, the Philippine agricultural and processed food exporters are also faced with strict biosecurity regime in New Zealand, particularly on tropical fruit and vegetable sap extract. The country's seafood and processed seafood products also have to contend with technical barriers in both New Zealand and Australia. Labelling requirements imposed by these two countries proved to be cumbersome.

#### *D. Rules of Origin*

- As set out in Article 4.1 of the Rules of Origin Chapter, a good will be considered as an AANZFTA originating good and thus entitled to preferential treatment if it meets either of the following tests:
  - i. The good has a Regional Value Content (RVC)<sup>14</sup> of not less than 40 percent of the FOB (free on board) value and the final process of production is performed within a Party.
  - ii. All non-originating materials used in the production of the good have undergone a CTC change at the 4 digit level (i.e., a change in tariff heading).
- To qualify for the tariff preference, the exporters of products, which are to be accorded preferential tariff treatment under the Agreement, must apply for a preferential CO (**Form AANZ**).
- The application needs to include supporting evidence proving that the good qualifies as originating, as well as, minimum data requirements.
- For further details on ROO and the data requirements for the application of CO visit <http://www.aseansec.org/publications/AANZFTA-ROO.pdf>

#### **USEFUL LINKS**

*For a copy of the Agreements, which detail the tariff concessions for all commodity classifications and commitments in other areas, visit:*

- <http://www.aseansec.org/akfta.htm>
- <http://www.aseansec.org/22258.htm>
- <http://www.dti.gov.ph/dti/index.php?p=642>
- <http://www.aseansec.org/19105.htm>

*For a primer and other research work on the Agreements, see:*

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14 RVC is the value of originating materials, which includes the value of originating materials, direct labor cost, direct overhead cost, transportation cost, and profit less the value of non-originating goods which shall be: (i) the CIF value at the time of importation of the materials, parts or goods; or (ii) the earliest ascertained price paid for the materials, parts or goods of undetermined origin in the territory of the Party where the working or processing has taken place.

- <http://www.uactphilippines.org/images/stories/uact/research/jpepa-primer2009.pdf>
- [http://www.uactphilippines.org/images/stories/uact/pdf/imust/asean\\_china%20primer.pdf](http://www.uactphilippines.org/images/stories/uact/pdf/imust/asean_china%20primer.pdf)
- <http://www.uactphilippines.org/images/stories/uact/research/asean-australia-new%20zealand%20primer%28website%29-1.pdf>
- <http://www.aseansec.org/Fact%20Sheet/AEC/2009-AEC-027-2.pdf>
- <http://www.aseansec.org/Fact%20Sheet/AEC/2009-AEC-027-2.pdf>
- <http://www.aseansec.org/Fact%20Sheet/AEC/2009-AEC-027-2.pdf>
- [http://www.searca.org/web/e\\_library/asian%20journal%20of%20agriculture%20and%20development%20\(vol3no%201&2\)/ajad-v3-n1-n2-pasadilla-non-tariff-measures-faced-by-philippine-agricultural-exports-in-east-asia.pdf](http://www.searca.org/web/e_library/asian%20journal%20of%20agriculture%20and%20development%20(vol3no%201&2)/ajad-v3-n1-n2-pasadilla-non-tariff-measures-faced-by-philippine-agricultural-exports-in-east-asia.pdf)
- <http://siteresources.worldbank.org/INTEAPREGTOPINTECOTRA/Resources/579386-1145902243289/Philippines-John-6-27.pdf>
- [http://r0.unctad.org/trains\\_new/index.shtm](http://r0.unctad.org/trains_new/index.shtm)
- <http://aric.adb.org/fta.php?id=80&ssid=3&title=ASEAN-Australia%20and%20New%20Zealand%20Free%20Trade%20Agreement>
- <http://aric.adb.org/fta.php?id=70&ssid=3&title=Japan-Philippines%20Economic%20Partnership%20Agreement>
- <http://aric.adb.org/fta.php?id=58&ssid=3&title=ASEAN-Korea%20Comprehensive%20Economic%20Cooperation%20Agreement>
- <http://aric.adb.org/fta.php?id=11&ssid=3&title=ASEAN-China%20Comprehensive%20Economic%20Cooperation%20Agreement>
- [http://r0.unctad.org/trains\\_new/index.shtm](http://r0.unctad.org/trains_new/index.shtm)
- [http://www.wto.org/english/tratop\\_E/tpr\\_e/tpr\\_e.htm](http://www.wto.org/english/tratop_E/tpr_e/tpr_e.htm)

*For further information and clarifications on how to avail of the concessions of the Agreements and other issues and concerns impacting on the utilization of these Agreements visit the websites of pertinent government offices of the Philippines and its FTA partners:*

- <http://www.dfat.gov.au/trade/fta/asean/aanzfta/>
- <http://www.asean.fta.govt.nz/>
- <http://www.austrade.gov.au/default.aspx?ArticleID=11334>
- <http://www.tariffcommission.gov.ph/topics1.html>
- [http://www.customs.gov.ph/boc\\_index.jsp](http://www.customs.gov.ph/boc_index.jsp)
- <http://www.philippines.embassy.gov.au/>
- <http://www.nzembassy.com/philippines>
- <http://www.ph.emb-japan.go.jp/>
- [http://embassy\\_philippines.mofat.go.kr/eng/as/embassy\\_philippines/main/index.jsp](http://embassy_philippines.mofat.go.kr/eng/as/embassy_philippines/main/index.jsp)
- <http://ph.china-embassy.org/eng/>