WTO Plus Elements on the Peru-Japan Economic Partnership Agreement (EPA)

Submitted by: Peru, Japan
Peru – Japan EPA

**Base Agreement**

- **CHAPTER 1**: General Provisions
- **CHAPTER 2**: Trade in Goods
- **CHAPTER 3**: Rules of Origin
- **CHAPTER 4**: Customs Procedures and Trade Facilitation
- **CHAPTER 5**: Sanitary and Phytosanitary Measures
- **CHAPTER 6**: Technical Regulations, Standards and Conformity Assessment Procedures
- **CHAPTER 7**: Cross-Border Trade in Services
- **CHAPTER 8**: Telecommunications
- **CHAPTER 9**: Entry and Temporary Entry of Nationals for Business Persons
- **CHAPTER 10**: Government Procurement
- **CHAPTER 11**: Competition
- **CHAPTER 12**: Improvement of the Business Environment
- **CHAPTER 13**: Cooperation
- **CHAPTER 14**: Dispute Settlement
- **CHAPTER 15**: Final Provisions

**Implementation Agreement**

- **CHAPTER 1**: Customs Procedures and Trade Facilitation
- **CHAPTER 2**: Competition
- **CHAPTER 3**: Cooperation
- **CHAPTER 4**: Final Provisions

**Entry into force:** March 1, 2012
WTO Plus Elements in EPA Peru - Japan

I. Financial Services (Annex 7 of Chapter 7)
II. Telecommunications Services (Chapter 8)
III. Entry and Temporary Stay of Nationals for Business Purposes (Chapter 9)
IV. Government Procurement (Chapter 10)
V. Competition (Chapter 12)
VI. Improvement of the Business Environment (Chapter 13)

I. Financial Services

WTO BACKGROUND: The financial services commitments in the EPA Peru-Japan should be compared with the GATS, including the Annex on Financial Services.

The WTO Plus elements in EPA regarding financial services are mainly contained in Annex 7 of Chapter 7, which includes the following provisions:

- NEW FINANCIAL SERVICES (ARTICLE 3)
- PAYMENT AND CLEARING SYSTEMS (ARTICLE 4)
- SELF-REGULATORY BODIES (ARTICLE 5)
- TRANSPARENCY (ARTICLE 6)
- EXPEDITIOUS APPLICATION PROCEDURES (ARTICLE 7)
- EFFECTIVE AND TRANSPARENT REGULATION (ARTICLE 9)
- TRANSFERS AND PROCESSING OF INFORMATION (ARTICLE 11)
I. Financial Services

In addition to Annex 7 of Chapter 7 of the EPA regarding financial services, WTO Plus elements in this regard are also included in:

**CROSS BORDER TRADE IN SERVICES**

- **Negative list** approach. Therefore, all financial services are liberalized, except for those listed in the **Non-Conforming Measures of each Party** (Annex 5 and Annex 6 of EPA).
- GATS follows a **positive list** approach.
- In comparison with the GATS, EPA establishes a higher liberalization to financial services.
- Moreover, Chapter 7 includes a **Local Presence** (LP) provision (Art. 107) under negative list approach.

**AGREEMENT FOR THE PROMOTION PROTECTION AND LIBERALIZATION OF INVESTMENT (BIT)**

- Article 2, par. 3 of Chapter 1-
  - The BIT provisions, incorporated to the EPA, are also applicable to investment in financial services.
  - The BIT also follows a negative list approach which promotes higher liberalization of investment in this sector.
  - The BIT also includes investment-protection commitments that would be applicable to the financial services sector, i.e., expropriation.

II. Entry and Temporary Stay of Nationals for Business Purposes

**Definition of the WTO plus: GATS Plus**

- GATS Plus elements of the Japan-Peru EPA

1. **Addition of the categories of nationals for business purposes**
   - Japan: "Investors", "Nationals for Business Purposes who engage in business activities, which require technology or knowledge at an advance level or which require specialized skills belonging to particular fields of industry, on basis of a personal contract with a Public or Private Organization in Japan".
   - Peru: "Business Visitors", "Intra-corporate Transferees", "Investors", "Professionals and Technicians".

2. **Commitments specifically in the field of entry and temporary stay over such as "Provisions of information and Facilitation of Procedures", "Cooperation", and "Transparency"**
   - Provisions of info over the requirements for entry and temporary stay (Article 137)
   - Cooperation on exchanging views such as visa policy (Article 139)
   - Provisions of info over the decision of visa application within 20 working days (Article 142)
III. Government Procurement

Definition of the WTO plus: GPA plus
Japan is a party to GPA and Peru is not.

- Thresholds for Japan and Peru - Valued Expressed in SDR (Special Drawing Rights)

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<th>Annex 9, Section 1</th>
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- Section 1: Central government entities.
- Section 2: Sub-central government entities.
- Section 3: All other entities which procure in accordance with the Agreement, in general public enterprises or public authorities such as utilities.

IV. Competition Policy

- WTO BACKGROUND: At the multilateral level, there is no specific agreement or section establishing obligations regarding competition.

- Chapter 12 of the EPA established substantial obligations as well as obligations regarding cooperation (Art. 190 of Chapter 12 and Chapter 2 of the Implementing Agreement).

Substantial obligations

- Establishes the commitment to implement appropriate measures or actions against anticompetitive practices in order to facilitate trade and investment.
- Types of anticompetitive practices are not listed.
- The parties agree on the following principles:
  - non-discriminatory (Art. 189);
  - due process (Art. 192); and,
  - transparency (Art. 193).

Cooperation obligations

- Base Agreement: To cooperate in controlling anti-competitive practices, subject to the availability of resources (Art. 190).
- The Implementing Agreement includes the following provisions:
  - Notifications (Art. 10)
  - Coordinate and cooperate in enforcement activities (Arts. 11-12)
  - Cooperate against anticompetitive activities (Art. 13)
  - Cooperate with technical assistance (Art. 15)
  - Transparency (art. 16)
  - Coordinate directly (Art. 20)
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