

## APPENDIX B-1

### AGRICULTURAL SAFEGUARD MEASURES

#### Section A: Notes for Appendix B-1

1. This Appendix sets out:
  - (a) the originating agricultural goods that may be subject to agricultural safeguard measures under paragraph 5 of the General Notes of the Tariff Schedule of Japan;
  - (b) the trigger levels for applying such measures; and
  - (c) the maximum rate of customs duty that may be applied in each year for each such good.
2. Notwithstanding Article 2.4 (Elimination of Customs Duties), Japan may apply a safeguard measure on specific originating agricultural goods provided for in the tariff items indicated with “SG1\*”, “SG1\*\*”, “SG2”, “SG3”, “SG4\*”, “SG4\*\*”, “SG5” or “SG6” in Column “Remarks” in Tariff Schedule of Japan. Japan may apply such a safeguard measure only under the conditions set out in this Appendix and only in accordance with the terms set out in this Appendix, including this Notes.
3. If the conditions specified in this Appendix have been satisfied, Japan may, as an agricultural safeguard measure, increase the rate of customs duty on such an originating agricultural good to a level not to exceed the lesser of:
  - (a) the most-favoured-nation applied rate of customs duty in effect at the time the agricultural safeguard measure is applied;
  - (b) the most-favoured-nation applied rate of customs duty in effect on the day immediately preceding the date of entry into force of this Agreement:
    - (i) for Japan, when the agricultural safeguard measure applies to originating agricultural goods from all the other Parties; and
    - (ii) with respect to Japan and the Party for which the agricultural safeguard measure applies, when an agricultural safeguard measure applies only to originating agricultural goods from that one Party; and

(c) the rate of customs duty set out in this Appendix.

4. Japan shall implement any agricultural safeguard measure in a transparent manner. Japan shall, within 60 days of the date of imposing the agricultural safeguard measure, notify in writing any other Party whose originating agricultural goods are subject to the measure and provide each such other Party with relevant data concerning the measure. Japan shall, on the written request of any such other Party, respond to specific questions from, and provide information to, that other Party, including by e-mail, teleconference, video-conference and in-person, regarding application of the measure.

5. For the purposes of this Appendix, an originating agricultural good is from the Party if the originating agricultural good is wholly obtained in that Party or if the last change of tariff heading took place in that Party.

6. For greater certainty, no agricultural safeguard measure may be applied or maintained on or after the date on which the rate of customs duty referred to in paragraph 3(c) of this Section is zero.

7. For the purposes of this Appendix:

(a) **year** means:

(i) with respect to Year 1, the period from the date of entry into force of this Agreement for Japan through the following March 31; and

(ii) with respect to Year 2 and each subsequent year, the 12-month period from April 1 until the following March 31;

(b) **fiscal year** means the period from April 1 through the following March 31; and

(c) **quarter** means a period:

(i) from April 1 through June 30;

(ii) from July 1 through September 30;

(iii) from October 1 through December 31; or

(iv) from January 1 through March 31.

## **Section B: Agricultural Safeguard Measure for Beef**

1. In accordance with paragraph 2 of Section A to this Appendix, with respect to the originating agricultural goods provided for in the tariff items indicated with “SG1\*” or “SG1\*\*” in Column “Remarks” in Tariff Schedule of Japan, Japan may apply an agricultural safeguard measure on those originating agricultural goods only when the aggregate volume of imports of those originating agricultural goods from all the other Parties for the year exceeds the trigger level set out as follows:

- (a) 590,000 metric tonnes for Year 1, except as provided in paragraph 9;
  - (b) 601,800 metric tonnes for Year 2;
  - (c) 613,600 metric tonnes for Year 3;
  - (d) 625,400 metric tonnes for Year 4;
  - (e) 637,200 metric tonnes for Year 5;
  - (f) 649,000 metric tonnes for Year 6;
  - (g) 660,800 metric tonnes for Year 7;
  - (h) 672,600 metric tonnes for Year 8;
  - (i) 684,400 metric tonnes for Year 9;
  - (j) 696,200 metric tonnes for Year 10;
  - (k) beginning in Year 11 and running through Year 15, the trigger level for each year shall be 5,900 metric tonnes greater than the trigger level in the previous year; and
  - (l) beginning in Year 16 and continuing every year thereafter, the trigger level for each year shall be 11,800 metric tonnes greater than the trigger level in the previous year.
2. (a) For the originating agricultural goods provided for in the tariff items indicated with “SG1\*”, the rate of customs duty referred to in paragraph 3(c) of Section A to this Appendix shall be:
- (i) 38.5 per cent, for Year 1 through Year 3;
  - (ii) 30.0 per cent, for Year 4 through Year 10;

- (iii) 20.0 per cent, for Year 11 through Year 14;
  - (iv) 18.0 per cent, for Year 15; and
  - (v) beginning in Year 16 and continuing every year thereafter:
    - (A) one percentage point less than the rate of customs duty in the previous year, if Japan did not apply a safeguard measure under this Section in the previous year; or
    - (B) the same as the rate of customs duty in the previous year, if Japan applied a safeguard measure under this Section in the previous year.
- (b) For the originating agricultural goods provided for in the tariff items indicated with “SG1\*\*”, the rate of customs duty referred to in paragraph 3(c) of Section A to this Appendix shall be:
- (i) 39.0 per cent, for Year 1;
  - (ii) 38.5 per cent, for Year 2 and Year 3;
  - (iii) 32.7 per cent, for Year 4;
  - (iv) 30.6 per cent, for Year 5;
  - (v) 30.0 per cent, for Year 6 through Year 10;
  - (vi) 20.0 per cent, for Year 11 through Year 14;
  - (vii) 18.0 per cent, for Year 15; and
  - (viii) beginning in Year 16 and continuing every year thereafter:
    - (A) one percentage point less than the rate of customs duty in the previous year, if Japan did not apply a safeguard measure under this Section in the previous year; or
    - (B) the same as the rate of customs duty in the previous year, if Japan applied a safeguard measure under this Section in the previous year.
- (c) If the condition set out in paragraph 1 is met in one year and as a result a safeguard measure is in effect during the following year pursuant to paragraph 3(b) or 3(c) of this Section, the rate of

customs duty referred to in paragraph 3(c) of Section A to this Appendix for the purpose of that safeguard measure shall, for the duration of that safeguard measure, be at the level applicable for the year in which the condition set out in paragraph 1 is met.

3. An agricultural safeguard measure referred to in paragraph 1 may be maintained:

- (a) if the aggregate volume of imports from all the other Parties of the originating agricultural goods provided for in the tariff items indicated with “SG1\*” or “SG1\*\*” in any fiscal year exceeds the trigger level set out in paragraph 1 prior to 31 January, until the end of that fiscal year;
- (b) if the aggregate volume of imports from all the other Parties of the originating agricultural goods provided for in the tariff items indicated with “SG1\*” or “SG1\*\*” in any fiscal year exceeds the trigger level set out in paragraph 1 during the month of February, for 45 days beginning from the day of the application of the agricultural safeguard measure; and
- (c) if the aggregate volume of imports from all the other Parties of the originating agricultural goods provided for in the tariff items indicated with “SG1\*” or “SG1\*\*” in any fiscal year exceeds the trigger level set out in paragraph 1 during the month of March, for 30 days beginning from the day of the application of the agricultural safeguard measure.

4. (a) For the purposes of this Section, the period during which an agricultural safeguard measure may be maintained shall commence no later than the day following the fifth business day after the end of the publication period in which the aggregate quantity of imports of the agricultural originating goods exceeded the trigger level set out in paragraph 1.

(b) For the purposes of this Section, as an exceptional measure taken for the implementation of this Section, within five business days after the end of each publication period, the customs administration of Japan shall publish the aggregate volume of imports of the originating agricultural goods provided for in the tariff items indicated with “SG1\*” or “SG1\*\*” in Column “Remarks” of the Tariff Schedule of Japan from all the other Parties between:

- (i) the beginning of the fiscal year and the end of the publication period; and

- (ii) for Year 11 through Year 15, the beginning of the quarter and the end of the publication period.
  - (c) For the purposes of this Section, **publication period** means:
    - (i) the period from the first day of each month until the 10th day of that month;
    - (ii) the period from the 11th day of each month until the 20th day of that month; and
    - (iii) the period from the 21st day of each month until the final day of that month.
5. (a) Notwithstanding paragraph 1, if, during any year from Year 11 through Year 15, the aggregate volume of imports of the originating agricultural goods provided for in the tariff items indicated with “SG1\*” or “SG1\*\*” in Column “Remarks” of the Tariff Schedule of Japan from all the other Parties in any quarter exceeds the quarterly safeguard trigger volume set out in subparagraph (b), Japan may increase the rates of customs duties for such goods in accordance with paragraph 3 of Section A to this Appendix for a period of 90 days. The 90-day period shall commence no later than the day following the fifth business day after the end of the publication period in which the aggregate quantity of imports of such goods in the quarter exceeded the quarterly safeguard trigger volume. The rate of customs duty referred to in paragraph 3(c) of Section A to this Appendix if the condition set out in this paragraph is met shall be:
- (i) 20.0 per cent, if the condition is met during Year 11 through Year 14; and
  - (ii) 18.0 per cent, if the condition is met in Year 15.
- (b) For the purposes of this paragraph, the **quarterly safeguard trigger volume** means 117 per cent of one fourth of the trigger level set out in paragraph 1(k) for the respective year.
- (c) Notwithstanding paragraph 1, if during any year from Year 11 through Year 15, the aggregate volume of imports of the originating agricultural goods provided for in the tariff items indicated with “SG1\*” or “SG1\*\*” in Column “Remarks” of the Tariff Schedule of Japan from all the other Parties exceeds the trigger level set out in paragraph 1(k) for the respective year, and at the same time the aggregate volume of imports of the originating agricultural goods provided for in those tariff items from all the other Parties in the

quarter exceeds the quarterly safeguard trigger volume set out in subparagraph (b), Japan may maintain an agricultural safeguard measure under this Section until the later of the end of the 90-day period provided for in subparagraph (a) or the date provided for in paragraph 3.

6. If, during any four consecutive fiscal years after Year 15, Japan does not apply an agricultural safeguard measure under this Section, Japan shall not apply any further agricultural safeguard measures under this Section.

7. When the importation into Japan from any Party of the originating agricultural goods provided for in the tariff items indicated with “SG1\*” or “SG1\*\*” in Column “Remarks” of the Tariff Schedule of Japan has been wholly or substantially suspended for more than three years due to sanitary concerns, Japan shall not apply an agricultural safeguard measure under this Section to such goods from that Party for four years after the whole or substantial lifting of the suspension. If a natural disaster such as severe drought disrupts the recovery of production in the Party whose imports had been suspended, the period in which Japan shall not apply an agricultural safeguard measure under this Section to such goods from that Party shall be five years.

8. Japan shall not apply the tariff emergency measures on beef referred to in Article 7.5 of the *Temporary Tariff Measures Law of Japan* (Law No.36 of 1960) to the originating agricultural goods provided for in the tariff items indicated with “SG1\*” in Column “Remarks” of the Tariff Schedule of Japan.

9. If Year 1 is less than 12 months, the applicable trigger level for Year 1 for the purposes of paragraph 1(a) shall be determined by multiplying 590,000 metric tonnes by a fraction the numerator of which shall be the number of months between the date of entry into force of this Agreement for Japan and the following March 31 and the denominator of which shall be 12. For the purpose of determining the numerator specified in the previous sentence and for the purpose of determining the applicable trigger level in accordance with the previous sentence, any fraction of less than 1.0 shall be rounded to the nearest whole number (in the case of 0.5, the fraction shall be rounded to 1.0).

10. (a) The aggregate volume of imports into Japan of the originating goods, as defined in subparagraph (o) of Article 1.2 of the Agreement between Japan and Australia for an Economic Partnership (JAEPA) (hereinafter referred to as “JAEPA originating goods”), which are classified under headings 02.01 and 02.02 under the JAEPA, shall be counted towards the aggregate volume of imports of the originating agricultural goods under this Agreement which are classified under the same tariff lines under this Agreement, in determining whether the aggregate volume of imports of the originating agricultural goods under this Agreement

exceeds the corresponding levels or volumes set out in paragraphs 1 and 5(b) of this Section.

- (b) For greater certainty, when the aggregate volume of imports from Australia of JAEPA originating goods classified under headings 02.01 and 02.02 under the JAEPA has exceeded the levels set out in subparagraphs 3.(a)(i) and (ii) of Section 1 (Notes for Schedule of Japan) of Part 3 of Annex 1 of the JAEPA, but the aggregate volume of imports of originating agricultural goods provided for in the tariff items indicated with “SG1\*” or “SG1\*\*” in Column “Remarks” of the Tariff Schedule of Japan under this Agreement has not exceeded the levels or volumes set out in paragraph 1 and 5(b) of this Section, further imports of the originating agricultural goods from Australia under this Agreement shall be subject to the rate of customs duty which is determined in accordance with the Tariff Schedule of Japan.
  - (c) For greater certainty, when the aggregate volume of imports of originating agricultural goods provided for in the tariff items indicated with “SG1\*” or “SG1\*\*” in Column “Remarks” of the Tariff Schedule of Japan under this Agreement has exceeded the levels or volumes set out in paragraph 1 and 5(b) of this Section and the aggregate volume of imports of JAEPA originating goods classified under headings 02.01 and 02.02 under the JAEPA has exceeded the levels set out in subparagraphs 3.(a)(i) and (ii) of Section 1 (Notes for Schedule of Japan) of Part 3 of Annex 1 of the JAEPA, then imports of the originating agricultural goods from Australia under this Agreement shall be subject to the rate of customs duty which is determined in accordance with this Section.
11. (a) In implementing the commitment on originating agricultural goods classified under headings 02.01 and 02.02, provided for in the Tariff Schedule of Japan, Japan and Australia agree that, notwithstanding subparagraphs 3.(a)(i) and (ii) of Section 1 (Notes for Schedule of Japan) of Part 3 of Annex 1 of the JAEPA, the aggregate volume of imports of the originating agricultural goods classified under headings 02.01 and 02.02 from Australia under this Agreement shall be counted towards the aggregate volume of imports of the JAEPA originating goods, which are classified under the same tariff lines under the JAEPA, in determining whether the aggregate volume of those JAEPA originating goods exceeds the level set out in subparagraphs 3.(a)(i) and (ii) of Section 1 (Notes for Schedule of Japan) of Part 3 of Annex 1 of the JAEPA.
- (b) For the purposes of ensuring the appropriate functioning of special safeguard measures under subparagraphs 3.(a)(i) and (ii) of Section 1 (Notes for Schedule of Japan) of Part 3 of Annex 1 of the JAEPA



to avoid a sudden increase in total import of the originating goods as defined in subparagraph (o) of Article 1.2 of the JAEPA which are classified under headings 02.01 and 02.02 under the JAEPA, on request of a Party which imports such originating goods, the requested Party and the requesting Party shall hold a consultation on the application of subparagraph (a).

- (c) For greater certainty, when the aggregate volume of imports of originating agricultural goods provided for in the tariff items indicated with “SG1\*” or “SG1\*\*” in Column “Remarks” of the Tariff Schedule of Japan under this Agreement has exceeded the levels or volumes set out in paragraphs 1 and 5(b) of this Section, but the aggregate volume of imports from Australia of JAEPA originating goods classified under headings 02.01 and 02.02 under the JAEPA has not exceeded the levels set out in subparagraphs 3.(a)(i) and (ii) of Section 1 (Notes for Schedule of Japan) of Part 3 of Annex 1 of the JAEPA, further imports of the JAEPA originating goods from Australia under the JAEPA shall be subject to the rate of customs duty which is determined in accordance with Section 1 (Notes for Schedule of Japan) of Part 3 of Annex 1 of the JAEPA.

### **Section C: Agricultural Safeguard Measure for Pork**

1. In accordance with paragraph 2 of Section A to this Appendix, with respect to the originating agricultural goods provided for in the tariff items indicated with “SG2” in Column “Remarks” in the Tariff Schedule of Japan (SG2 goods), Japan may apply an agricultural safeguard measure only when the following conditions are met, except as provided in paragraphs 6 and 7 of this Section:

- (a) in Year 1 and Year 2, except as provided in paragraph 6 of this Section, Japan may apply an agricultural safeguard measure under this Section on SG2 goods from an individual Party if the aggregate volume of imports of SG2 goods from that individual Party for the respective year exceeds 112 per cent of the largest annual aggregate volume of imports of SG2 goods from that individual Party during any of the preceding three fiscal years;
- (b) in Year 3 and Year 4, Japan may apply an agricultural safeguard measure under this Section on SG2 goods from an individual Party if the aggregate volume of imports of SG2 goods from that individual Party for the respective year exceeds 116 per cent of the largest annual aggregate volume of imports of SG2 goods from that individual Party during any of the preceding three fiscal years;
- (c) in Year 5 and Year 6:
  - (i) Japan may apply an agricultural safeguard measure under this Section on SG2 goods from an individual Party imported at a price equal to or greater than the threshold price for those SG2 goods, if the aggregate volume of imports of those SG2 goods from that individual Party for the respective year exceeds 116 per cent of the largest annual aggregate volume of imports of those SG2 goods from that individual Party during any of the preceding three fiscal years; or
  - (ii) Japan may apply an agricultural safeguard measure under this Section on SG2 goods from all the other Parties imported at a price less than the threshold price for those SG2 goods, if the aggregate volume of imports of those SG2 goods from all the other Parties for the respective year exceeds:
    - (A) in Year 5: 90,000 metric tonnes; and
    - (B) in Year 6: 102,000 metric tonnes;

- (d) in Year 7 through Year 11:
- (i) Japan may apply an agricultural safeguard measure under this Section on SG2 goods from an individual Party imported at price equal to or greater than the threshold price for those SG2 goods, if the aggregate volume of imports of those SG2 goods from that Party for the respective year exceeds 119 per cent of the largest annual aggregate volume of imports of those SG2 goods from that Party during any of the preceding three fiscal years; or
  - (ii) Japan may apply an agricultural safeguard measure under this Section on SG2 goods from all the other Parties imported at price less than the threshold price for those SG2 goods, if the aggregate volume of imports of those SG2 goods from all the other Parties for the respective year exceeds:
    - (A) in Year 7: 114,000 metric tonnes;
    - (B) in Year 8: 126,000 metric tonnes;
    - (C) in Year 9: 138,000 metric tonnes;
    - (D) in Year 10: 150,000 metric tonnes; and
    - (E) in Year 11: 150,000 metric tonnes,

where for the purposes of subparagraphs (c) and (d), **threshold price** means:

- (iii) for the originating agricultural goods provided for in the tariff items 020312.021, 020312.023, 020319.021, 020319.023, 020322.021, 020322.023, 020329.021, 020329.023, 020630.092, 020630.093, 020649.092 or 020649.093: 399 yen per kilogramme; and
- (iv) for the originating agricultural goods provided for in the tariff items 020311.020, 020311.030, 020321.020 or 020321.030: 299.25 yen per kilogramme.

2. For SG2 goods, the rate of customs duty referred to in paragraph 3(c) of Section A to this Appendix shall be:

- (a) for SG2 goods provided for in the tariff items 020311.040, 020312.022, 020319.022, 020321.040, 020322.022, 020329.022 020630.099 or 020649.099:

- (i) in Year 1 through Year 3: 4.0 per cent;
  - (ii) in Year 4 through Year 6: 3.4 per cent;
  - (iii) in Year 7 through Year 9: 2.8 per cent; and
  - (iv) in Year 10 and Year 11: 2.2 per cent,
- (b) for SG2 goods provided for in the tariff items 020312.021, 020312.023, 020319.021, 020319.023, 020322.021, 020322.023, 020329.021, 020329.023, 020630.092, 020630.093, 020649.092 or 020649.093, the lesser of:
- (i) the difference between CIF import price per kilogramme and the First Safeguard Standard Import Price; and
  - (ii) the first alternative rate,

where for the purposes of this subparagraph:

- (iii) **First Safeguard Standard Import Price** means a price equal to 524 yen per kilogramme multiplied by the sum of 100 per cent and the rate of customs duty set out in paragraph 2(a) for the respective year; and
  - (iv) **first alternative rate** means:
    - (A) in Year 1 through Year 4: the rate of customs duty specified in the Tariff Schedule of Japan for the tariff lines 020312.023, 020319.023, 020322.023, 020329.023, 020630.093 or 020649.093;
    - (B) in Year 5 through Year 9: 100 yen per kilogramme; and
    - (C) in Year 10 and Year 11: 70 yen per kilogramme; and
- (c) for SG2 goods provided for in the tariff items 020311.020, 020311.030, 020321.020 or 020321.030, the lesser of:
- (i) the difference between CIF import price per kilogramme and the Second Safeguard Standard Import Price; and
  - (ii) the second alternative rate,

where for the purposes of this subparagraph:

- (iii) **Second Safeguard Standard Import Price** means a price equal to 393 yen per kilogramme multiplied by the sum of 100 per cent and the rate of customs duty set out in paragraph 2(a) for the respective year; and
- (iv) **second alternative rate** means:
  - (A) in Year 1 through Year 4: the rate of customs duty specified in the Tariff Schedule of Japan for the tariff lines 020311.020 or 020321.020;
  - (B) in Year 5 through Year 9: 75 yen per kilogramme; and
  - (C) in Year 10 and Year 11: 52.5 yen per kilogramme.

3. Any agricultural safeguard measure applied under this Section may be maintained only until the end of the fiscal year in which the trigger level was exceeded.

4. Japan shall not apply or maintain any agricultural safeguard measure under this Section after the end of Year 11.

5. Japan shall not apply the tariff emergency measures on pork referred to in paragraph 1 of Article 7.6 of *the Temporary Tariff Measures Law of Japan* (Law No. 36 of 1960) to SG2 goods.

6. If Year 1 is less than 12 months, the applicable trigger level for SG2 goods from an individual Party for Year 1 for the purposes of paragraph 1(a) shall be determined by multiplying 112 per cent of the largest annual aggregate volume of imports of SG2 goods from that Party during any of the preceding three fiscal years by a fraction the numerator of which shall be the number of months between the date of entry into force of this Agreement for Japan and the following March 31 and the denominator of which shall be 12. For the purpose of determining the numerator specified in the previous sentence and for the purpose of determining the applicable trigger level in accordance with the previous sentence, any fraction of less than 1.0 shall be rounded to the nearest whole number (in the case of 0.5, the fraction shall be rounded to 1.0).

7. If this Agreement enters into force for a Party other than Japan in accordance with Article 30.5.4 and Article 30.5.5 (Entry into Force), and:

- (a) the date of entry into force of this Agreement for that Party is not April 1; and

- (b) the period between the date of entry into force of this Agreement for that Party and the following March 31 is not Year 1,

the applicable trigger level for SG2 goods from that Party for the year for the purposes of paragraph 1 shall be determined by multiplying the trigger level that would be applicable pursuant to paragraph 1 if it were a complete year by a fraction the numerator of which shall be the number of months between the date of entry into force of this Agreement for that Party and the following March 31 and the denominator of which shall be 12. For the purpose of determining the numerator specified in the previous sentence and for the purpose of determining the applicable trigger level in accordance with the previous sentence, any fraction of less than 1.0 shall be rounded to the nearest whole number (in the case of 0.5, the fraction shall be rounded to 1.0).

## Section D: Agricultural Safeguard Measure for Processed Pork

1. In accordance with paragraph 2 of Section A to this Appendix, with respect to the originating agricultural goods provided for in the tariff items indicated with “SG3” in Column “Remarks” in the Tariff Schedule of Japan (SG3 goods), Japan may apply an agricultural safeguard measure only when the following conditions are met, except as provided in paragraphs 6 and 7 of this Section:

- (a) in Year 1 and Year 2, except as provided in paragraph 6 of this Section, Japan may apply an agricultural safeguard measure under this Section on SG3 goods from an individual Party only if the aggregate volume of imports of SG3 goods from that individual Party for the respective year exceeds 115 per cent of the largest annual aggregate volume of imports of SG3 goods from that Party during any of the preceding three fiscal years;
  - (b) in Year 3 through Year 6, Japan may apply an agricultural safeguard measure under this Section on SG3 goods from an individual Party only if the aggregate volume of imports of SG3 goods from that other Party for the respective year exceeds 118 per cent of the largest annual aggregate volume of imports of SG3 goods from that individual Party during any of the preceding three fiscal years; and
  - (c) in Year 7 through Year 11, Japan may apply an agricultural safeguard measure under this Section on SG3 goods from an individual Party only if the aggregate volume of imports of SG3 goods from that other Party for the respective year exceeds 121 per cent of the largest annual aggregate volume of imports of SG3 goods from that individual Party during any of the preceding three fiscal years.
2. (a) For SG3 goods, the rate of customs duty referred to in paragraph 3(c) of Section A to this Appendix shall be:
- (i) for Year 1 through Year 4: 85 per cent of the base rate;
  - (ii) for Year 5 through Year 9: 60 per cent of the base rate; and
  - (iii) for Year 10 and Year 11: 45 per cent of the base rate.
- (b) For the purposes of this paragraph, the base rate shall be comprised of an *ad valorem* duty component and a specific duty component, each of which shall be reduced to the percentages identified in subparagraph (a) to determine the rate of customs duty referred to in paragraph 3(c) of Section A to this Appendix. The *ad valorem*

duty component of the base rate shall be 8.5 per cent, and the specific duty component shall be equal to 614.85 yen per kilogramme minus 60 per cent of the CIF import price per kilogramme of the respective SG3 good.

3. Any agricultural safeguard measure applied under this Section may be maintained only until the end of the fiscal year in which the trigger level was exceeded.

4. Japan shall not apply any agricultural safeguard measure under this Section after the end of Year 11.

5. Japan shall not apply the tariff emergency measures on pork referred to in paragraph 1 of Article 7-6 of *the Temporary Tariff Measures Law of Japan* (Law No. 36 of 1960) to SG3 goods.

6. If Year 1 is less than 12 months, the applicable trigger level for SG3 goods from an individual Party for Year 1 for the purposes of paragraph 1(a) shall be determined by multiplying 115 per cent of the largest annual aggregate volume of imports of SG3 goods from that Party during any of the preceding three fiscal years by a fraction the numerator of which shall be the number of months between the date of entry into force of this Agreement for Japan and the following March 31 and the denominator of which shall be 12. For the purpose of determining the numerator specified in the previous sentence and for the purpose of determining the applicable trigger level in accordance with the previous sentence, any fraction of less than 1.0 shall be rounded to the nearest whole number (in the case of 0.5, the fraction shall be rounded to 1.0).

7. If this Agreement enters into force for a Party other than Japan in accordance with Article 30.5.4 and Article 30.5.5 (Entry into Force), and:

- (a) the date of entry into force of this Agreement for that Party is not April 1; and
- (b) the period between the date of entry into force of this Agreement for that Party and the following March 31 is not Year 1,

the applicable trigger level for SG3 goods from that Party for the year for the purposes of paragraph 1 shall be determined by multiplying the trigger level that would be applicable pursuant to paragraph 1 if it were a complete year by a fraction the numerator of which shall be the number of months between the date of entry into force of this Agreement for that Party and the following March 31 and the denominator of which shall be 12. For the purpose of determining the numerator specified in the previous sentence and for the purpose of determining the applicable trigger level in accordance with the previous sentence, any fraction of less than 1.0 shall be rounded to the nearest whole number (in the case of 0.5, the fraction shall be rounded to 1.0).



## **Section E: Agricultural Safeguard Measure for WPC**

1. In accordance with paragraph 2 of Section A to this Appendix, with respect to the originating agricultural goods provided for in the tariff items indicated with “SG4\*” in Column “Remarks” in the Tariff Schedule of Japan, Japan may apply an agricultural safeguard measure on those originating agricultural goods only when the aggregate volume of imports of those originating agricultural goods from all the other Parties for the year exceeds the trigger level set out as follows:

- (a) 4,500 metric tonnes for Year 1, except as provided in paragraph 6;
- (b) 4,778 metric tonnes for Year 2;
- (c) 5,056 metric tonnes for Year 3;
- (d) 5,333 metric tonnes for Year 4;
- (e) 5,611 metric tonnes for Year 5;
- (f) 5,889 metric tonnes for Year 6;
- (g) 6,167 metric tonnes for Year 7;
- (h) 6,444 metric tonnes for Year 8;
- (i) 6,722 metric tonnes for Year 9;
- (j) 7,000 metric tonnes for Year 10;
- (k) 7,750 metric tonnes for Year 11;
- (l) 8,500 metric tonnes for Year 12;
- (m) 9,250 metric tonnes for Year 13;
- (n) 10,250 metric tonnes for Year 14;
- (o) 11,250 metric tonnes for Year 15;
- (p) 12,250 metric tonnes for Year 16;
- (q) 13,250 metric tonnes for Year 17;
- (r) 14,250 metric tonnes for Year 18;
- (s) 15,250 metric tonnes for Year 19;

- (t) 16,250 metric tonnes for Year 20; and
- (u) beginning in Year 21 and continuing every year thereafter, the trigger level for each year shall be 1,250 metric tonnes greater than the trigger level in the previous year.

2. For the originating agricultural goods provided for in the tariff items indicated with “SG4\*”, the rate of customs duty referred to in paragraph 3(c) of Section A to this Appendix shall be:

- (a) 29.8 per cent plus 120 yen per kilogramme, for Year 1 through Year 5;
- (b) 23.8 per cent plus 105 yen per kilogramme, for Year 6 through Year 10;
- (c) 19.4 per cent plus 90 yen per kilogramme, for Year 11 through Year 15;
- (d) 13.4 per cent plus 75 yen per kilogramme, for Year 16 through Year 20; and
- (e) beginning in Year 21 and continuing every year thereafter:
  - (i) the *ad valorem* duty component of the rate of customs duty shall be 1.9 per cent lower than it was in the previous year and the specific duty component of the rate of customs duty shall be 10.7 yen per kilogramme lower than it was in the previous year, unless an agricultural safeguard measure set out in this Section was applied in the previous year; or
  - (ii) the *ad valorem* duty component of the rate of customs duty shall be 1.0 per cent lower than it was in the previous year and the specific duty component of the rate of customs duty shall be 5.0 yen per kilogramme lower than it was in the previous year if an agricultural safeguard measure set out in this Section was applied in the previous year.

3. Any agricultural safeguard measure applied under this Section may be maintained only until the end of the fiscal year in which the trigger level was exceeded.

4. If, during any three consecutive fiscal years after Year 20, Japan does not apply an agricultural safeguard measure under this Section, Japan shall not apply any further agricultural safeguard measures under this Section.

5. (a) Notwithstanding paragraph 1, Japan shall not apply any agricultural safeguard measure under this Section if:
- (i) there is a domestic shortage of skimmed milk powder in Japan; or
  - (ii) there is no demonstrable reduction in domestic demand for skimmed milk powder in Japan.
- (b) If Japan applies an agricultural safeguard measure under this Section when an individual Party whose originating agricultural goods are subject to the measure believes that either of the conditions set out in subparagraph (a) has been satisfied, that Party may:
- (i) ask Japan to provide an explanation of why Japan does not consider either of the conditions set out in subparagraph (a) to have been satisfied; and
  - (ii) request that Japan cease application of the agricultural safeguard measure for the remainder of the fiscal year.

6. If Year 1 is less than 12 months, the applicable trigger level for Year 1 for the purposes of paragraph 1(a) shall be determined by multiplying 4,500 metric tonnes by a fraction the numerator of which shall be the number of months between the date of entry into force of this Agreement for Japan and the following March 31 and the denominator of which shall be 12. For the purpose of determining the numerator specified in the previous sentence and for the purpose of determining the applicable trigger level in accordance with the previous sentence, any fraction of less than 1.0 shall be rounded to the nearest whole number (in the case of 0.5, the fraction shall be rounded to 1.0).

## **Section F: Agricultural Safeguard Measure for Whey Powder**

1. In accordance with paragraph 2 of Section A to this Appendix, with respect to the originating agricultural goods provided for in the tariff items indicated with “SG4\*\*” in Column “Remarks” in the Tariff Schedule of Japan, Japan may apply an agricultural safeguard measure on those originating agricultural goods only when the aggregate volume of imports of those originating agricultural goods from all the other Parties for the year exceeds the trigger level set out as follows:

- (a) 5,000 metric tonnes for Year 1, except as provided in paragraph 5;
- (b) 5,333 metric tonnes for Year 2;
- (c) 5,667 metric tonnes for Year 3;
- (d) 6,000 metric tonnes for Year 4;
- (e) 6,333 metric tonnes for Year 5;
- (f) 6,667 metric tonnes for Year 6;
- (g) 7,000 metric tonnes for Year 7;
- (h) 7,333 metric tonnes for Year 8;
- (i) 7,667 metric tonnes for Year 9;
- (j) 8,000 metric tonnes for Year 10;
- (k) 8,500 metric tonnes for Year 11;
- (l) 9,000 metric tonnes for Year 12;
- (m) 9,750 metric tonnes for Year 13;
- (n) 10,500 metric tonnes for Year 14;
- (o) 11,250 metric tonnes for Year 15; and
- (p) beginning in Year 16 and continuing every year thereafter, the trigger level for each year shall be 1,000 metric tonnes greater than the trigger level in the previous year.

2. For the originating agricultural goods provided for in the tariff items indicated with “SG4\*\*”, the rate of customs duty referred to in paragraph 3(c) of Section A to this Appendix shall be:

- (a) for Year 1 through Year 5, 29.8 per cent plus 75 yen per kilogramme;
- (b) for Year 6 through Year 10, 23.8 per cent plus 45 yen per kilogramme;
- (c) for Year 11 through Year 15, 13.4 per cent plus 30 yen per kilogramme; and
- (d) beginning in Year 16 and continuing every year thereafter:
  - (i) 2.0 per cent and 4.0 yen per kilogramme lower than it was in the previous year, unless an agricultural safeguard measure set out in this Section was applied in the previous year; or
  - (ii) 1.0 per cent and 2.0 yen per kilogramme lower than it was in the previous year if an agricultural safeguard measure set out in this Section was applied in the previous year.

3. Any agricultural safeguard measure applied under this Section may be maintained only until the end of the fiscal year in which the trigger level was exceeded.

4. If, during any two consecutive years after Year 15, Japan does not apply an agricultural safeguard measure under this Section, Japan shall not apply any further agricultural safeguard measures under this Section.

5. If Year 1 is less than 12 months, the applicable trigger level for Year 1 for the purposes of paragraph 1(a) shall be determined by multiplying 5,000 metric tonnes by a fraction the numerator of which shall be the number of months between the date of entry into force of this Agreement for Japan and the following March 31 and the denominator of which shall be 12. For the purpose of determining the numerator specified in the previous sentence and for the purpose of determining the applicable trigger level in accordance with the previous sentence, any fraction of less than 1.0 shall be rounded to the nearest whole number (in the case of 0.5, the fraction shall be rounded to 1.0).

## **Section G: Agricultural Safeguard Measure for Fresh Oranges**

1. In accordance with paragraph 2 of Section A to this Appendix, with respect to the originating agricultural goods provided for in the tariff items indicated with “SG5” in Column “Remarks” in the Tariff Schedule of Japan, Japan may apply an agricultural safeguard measure on those originating agricultural goods only when the aggregate volume of imports of those originating agricultural goods from all the other Parties between December 1 and March 31 for the fiscal year exceeds the level set out as follows:

- (a) 35,000 metric tonnes for Year 1, except as provided in paragraph 5;
- (b) 37,000 metric tonnes for Year 2;
- (c) 39,000 metric tonnes for Year 3;
- (d) 41,000 metric tonnes for Year 4;
- (e) 43,000 metric tonnes for Year 5;
- (f) 45,000 metric tonnes for Year 6; and
- (g) 47,000 metric tonnes for Year 7.

2. For the originating agricultural goods provided for in the tariff items indicated with “SG5”, the rate of customs duty referred to in paragraph 3(c) of Section A to this Appendix shall be:

- (a) for Year 1 through Year 4: 28 per cent; and
- (b) for Year 5 through Year 7: 20 per cent.

3. Any agricultural safeguard measure applied under this Section may be maintained only until the end of the fiscal year in which the trigger level was exceeded.

4. Japan shall not apply any safeguard measure under this Section after the end of Year 7.

5. If Year 1 is less than 4 months, the applicable trigger level for Year 1 for the purposes of paragraph 1(a) shall be determined by multiplying 35,000 metric tonnes by a fraction the numerator of which shall be the number of months between the date of entry into force of the Agreement for Japan and the following March 31 and the denominator of which shall be four. For the purpose of determining the numerator specified in the previous sentence and for the purpose of determining the applicable trigger level in accordance with the previous

sentence, any fraction of less than 1.0 shall be rounded to the nearest whole number (in the case of 0.5, the fraction shall be rounded to 1.0).

## **Section H: Agricultural Safeguard Measure for Race Horses**

1. In accordance with paragraph 2 of Section A to this Appendix, with respect to the originating agricultural goods provided for in the tariff items indicated with “SG6” in Column “Remarks” of the Tariff Schedule of Japan, Japan may apply an agricultural safeguard measure on those originating agricultural goods only if the CIF import price per each of those originating agricultural goods, expressed in Japanese Yen, is less than 90 per cent of the trigger price. The trigger price shall be the price that has been agreed in accordance with paragraph 4, or 8.5 million yen if there has been no specific agreement on the trigger price in accordance with paragraph 4.

2. For the originating agricultural goods provided for in the tariff items indicated with “SG6”, the rate of customs duty referred to in paragraph 3(c) of Section A to this Appendix shall be the rate of customs duty determined for those originating agricultural goods in accordance with staging category B16 identified in the Tariff Schedule of Japan plus:

- (a) if the difference between the CIF import price per each of the originating agricultural good and the trigger price is greater than 10 per cent but less than or equal to 40 per cent of the trigger price: 30 per cent of the difference between the most-favoured-nation applied rate of customs duty in effect at the time of importation and the rate of customs duty applied to the originating agricultural goods in accordance with the staging category B16 identified in the Tariff Schedule of Japan;
- (b) if the difference between the CIF import price per each of the originating agricultural good and the trigger price is greater than 40 per cent but less than or equal to 60 per cent of the trigger price: 50 per cent of the difference between the most-favoured-nation applied rate of customs duty in effect at the time of importation and the rate of customs duty applied to the originating agricultural goods in accordance with the staging category B16 identified in the Tariff Schedule of Japan;
- (c) if the difference between the CIF import price per each of the originating agricultural good and the trigger price is greater than 60 per cent but less than or equal to 75 per cent of the trigger price: 70 per cent of the difference between the most-favoured-nation applied rate of customs duty in effect at the time of importation and the rate of customs duty applied to the originating agricultural goods in accordance with the staging category B16 identified in the Tariff Schedule of Japan; and
- (d) if the difference between the CIF import price per each of the originating agricultural good and the trigger price is greater than 75



per cent of the trigger price: the difference between the most-favoured-nation applied rate of customs duty in effect at the time of importation and the rate of customs duty applied to the originating agricultural goods in accordance with the staging category B16 identified in the Tariff Schedule of Japan.

3. Japan shall not apply any safeguard measure under this Section after the end of Year 15.

4. On request of a Party, and following notification of such request to all the other Parties, Japan and those Parties interested in consulting shall consult on the operation of the safeguard measure set out in this Section and may mutually agree to periodically evaluate and update the trigger price.