

October 7, 2019

His Excellency
Ambassador Robert E. Lighthizer
United States Trade Representative

Excellency,

In connection with the signing of the Trade Agreement between Japan and the United States of America (the Agreement), I have the honor to confirm the following understanding reached between representatives of the Government of Japan and the Government of the United States of America with respect to implementation of paragraph 12(e)(i) (Agricultural Safeguard Measure for WPC) of Sub-Section 4 (Agricultural Safeguard Measures) of Section B (Tariff Commitments of Japan) in Annex I (Tariffs and Tariff-Related Provisions of Japan) of the Agreement. Japan shall implement paragraph 12(e)(i) in accordance with applicable laws and regulations of Japan to the extent that those laws and regulations are consistent with the international obligations that apply between Japan and the United States, including those under the Agreement and this letter and your letter of confirmation in reply.

1. Prior to imposing any agricultural safeguard measure under paragraph 12 of Sub-Section 4 of Section B in Annex I of the Agreement, Japan shall undertake an assessment of whether either condition specified in paragraph 12(e)(i) has been satisfied.
2. The importation or projected importation by any Japanese state owned enterprise of skimmed milk powder other than that under:
 - (a) Japan's World Trade Organization quota for "designated dairy products for general use"; or
 - (b) a quota established under another trade agreement to which Japan is a party,

shall be deemed to demonstrate conclusively the existence of a domestic shortage of skimmed milk powder in Japan for the remainder of the Japanese fiscal year for the purposes of paragraph 12(e)(i)(A) of Sub-Section 4 of Section B in Annex I of the Agreement.

3. To ascertain whether the condition specified in paragraph 12(e)(i)(B) of Sub-Section 4 of Section B in Annex I of the Agreement exists, Japan shall undertake a comprehensive assessment of the market in Japan for skimmed milk powder, and in so doing shall consider, among other factors:
 - (a) historical records of and trends in Japanese production and stocks of skimmed milk powder;

- (b) historical records of and trends in Japanese wholesale prices of skimmed milk powder; and
- (c) any recent natural disaster or prolonged weather anomaly producing a demonstrable effect on the Japanese market for skimmed milk powder.

I have the honor to propose that this letter, equally valid in Japanese and English, and your letter of confirmation in reply, equally valid in English and Japanese, shall constitute an agreement between our two Governments, which shall enter into force on the date of entry into force of the Agreement.

Sincerely,

SUGIYAMA Shinsuke
Ambassador of Japan to the United States of America

October 7, 2019

His Excellency
Mr. SUGIYAMA Shinsuke
Ambassador of Japan to the United States of America

Excellency,

I am pleased to acknowledge the receipt of your letter of October 7, 2019, which reads as follows:

“In connection with the signing of the Trade Agreement between Japan and the United States of America (the Agreement), I have the honor to confirm the following understanding reached between representatives of the Government of Japan and the Government of the United States of America with respect to implementation of paragraph 12(e)(i) (Agricultural Safeguard Measure for WPC) of Sub-Section 4 (Agricultural Safeguard Measures) of Section B (Tariff Commitments of Japan) in Annex I (Tariffs and Tariff-Related Provisions of Japan) of the Agreement. Japan shall implement paragraph 12(e)(i) in accordance with applicable laws and regulations of Japan to the extent that those laws and regulations are consistent with the international obligations that apply between Japan and the United States, including those under the Agreement and this letter and your letter of confirmation in reply.

1. Prior to imposing any agricultural safeguard measure under paragraph 12 of Sub-Section 4 of Section B in Annex I of the Agreement, Japan shall undertake an assessment of whether either condition specified in paragraph 12(e)(i) has been satisfied.

2. The importation or projected importation by any Japanese state owned enterprise of skimmed milk powder other than that under:

- (a) Japan’s World Trade Organization quota for “designated dairy products for general use”; or
- (b) a quota established under another trade agreement to which Japan is a party,

shall be deemed to demonstrate conclusively the existence of a domestic shortage of skimmed milk powder in Japan for the remainder of the Japanese fiscal year for the purposes of paragraph 12(e)(i)(A) of Sub-Section 4 of Section B in Annex I of the Agreement.

3. To ascertain whether the condition specified in paragraph 12(e)(i)(B) of Sub-Section 4 of Section B in Annex I of the Agreement exists, Japan shall undertake a comprehensive assessment of the market in Japan for skimmed milk powder, and in so doing shall consider,

among other factors:

- (a) historical records of and trends in Japanese production and stocks of skimmed milk powder;
- (b) historical records of and trends in Japanese wholesale prices of skimmed milk powder; and
- (c) any recent natural disaster or prolonged weather anomaly producing a demonstrable effect on the Japanese market for skimmed milk powder.

I have the honor to propose that this letter, equally valid in Japanese and English, and your letter of confirmation in reply, equally valid in English and Japanese, shall constitute an agreement between our two Governments, which shall enter into force on the date of entry into force of the Agreement.”

I have the further honor to confirm that my Government shares this understanding and to agree that your letter, equally valid in Japanese and English, and this letter in reply, equally valid in English and Japanese, shall constitute an agreement between our two Governments, which shall enter into force on the date of entry into force of the Trade Agreement between the United States of America and Japan.

Sincerely,

Ambassador Robert E. Lighthizer
United States Trade Representative