

TRADE AND INVESTMENT

Market Access for Beef and Citrus Products

**Agreement Between the
UNITED STATES OF AMERICA
and JAPAN**

Exchange of Letters at Washington
July 5, 1988

With Annex and Attachment

Entered into force July 5, 1988



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20506

July 5, 1988

Excellency:

I have the honor to acknowledge receipt of your letter of today's date concerning the implementation of market-opening measures by the Government of Japan, regarding imports of fresh oranges, orange juice, orange juice mixtures, grapefruit, beef, and other products.

I am pleased to confirm that the United States has today notified the Secretariat of the General Agreement on Tariffs and Trade of the withdrawal of our complaint under Article XXIII of the General Agreement regarding Japan's import restrictions on beef, fresh oranges and orange juice.

I am further pleased to confirm that the Florida citrus industry has withdrawn its petition under Section 301 of the Trade Act of 1974. I have therefore terminated the Section 301 investigation concerning Japanese import restrictions on fresh oranges and orange juice and the blending requirement on orange juice.

Sincerely,



Clayton Yeutter

His Excellency
Nobuo Matsunaga
Ambassador of Japan



EMBASSY OF JAPAN
WASHINGTON, D. C.


July 5, 1988

Ambassador Yeutter:

I have the honor to refer to the recent consultations held between the Governments of Japan and the United States concerning Japan's import regime for beef, fresh oranges and orange juice. I have further the honor to inform you, on behalf of the Government of Japan, that it intends to implement market-opening measures concerning imports of fresh oranges, orange juice, orange juice mixtures, grapefruit, beef, and other products as indicated in the Annex hereto and its Attachment, subject to necessary domestic procedures including Diet approval.

I have also the honor to inform you that the Government of Japan will be prepared to hold consultations with the United States Government annually to review and exchange information on the progress of trade in the said products.

Accept, Sir, the renewed assurances of my highest consideration.


Nobuo Matsunaga
Ambassador of Japan

The Honorable

Clayton Yeutter

United States Trade Representative

Washington, D. C. 20506

ANNEX

The Government of Japan will implement the following market-opening measures on beef and citrus and other products subject to necessary domestic procedures including Diet approval. The measures will be implemented in a manner consistent with the most-favored-nation principle of the GATT.

1. CITRUS

1.1 Fresh Oranges

1.1.1 On April 1, 1991, the import allocation system on fresh oranges will be terminated, and no GATT-inconsistent measures will be taken.

1.1.2 In the period before April 1, 1991, the Government of Japan will increase market access for imports of fresh oranges to the following levels.

(metric tons)

JFY 1988	148,000
JFY 1989	170,000
JFY 1990	192,000

1.1.2.1 The Government of Japan will grant import access for fresh oranges in commercially viable quantities, to any existing importer or new importer, including those who have not imported oranges before. A certain portion, but not less than ten percent of the increase in market access each year will be allocated to newcomers, and no single newcomer may be awarded more than ten percent of this annual increase for newcomers.

1.1.3 Imports of fresh oranges in excess of 126,000 metric tons will be free from seasonal restrictions.

1.2 Orange Juice

1.2.1 Concentrated orange juice

1.2.1.1 On April 1, 1992, the import allocation system on concentrated orange juice will be terminated, and no GATT-inconsistent measures will be taken.

1.2.1.2 In the period before April 1, 1992, the Government of Japan will increase market access for imports of concentrated orange juice to the following levels.

(metric tons, 5 to 1 concentrate basis)

JFY 1988	15,000
JFY 1989	19,000
JFY 1990	23,000
JFY 1991	40,000

1.2.1.2.1 New users of concentrated orange juice will be allocated a commercially viable quantity on a fair and equitable basis through joining any one of the existing associations of orange juice users which have been granted the notification for import allocations of concentrated orange juice.

1.2.1.3 The Government of Japan will phase out the blending requirement on concentrated orange juice over two years as follows:

JFY 1988	40% free of blending requirement
JFY 1989	60% free of blending requirement

Concrete measures are specified in the Attachment to this Annex.

1.2.2 Single strength orange juice and orange juice mixtures

1.2.2.1 A temporary import allocation system for single strength orange juice and orange juice mixtures will be set up, and market access in this system will be increased to the following levels.

(kiloliters, single strength basis)

JFY 1988	15,000
JFY 1989	21,000
JFY 1990	27,000
JFY 1991	issue licenses without limit to meet any amount of domestic demand

1.2.2.2 The import allocation system will be terminated on April 1, 1992, and no GATT-inconsistent measures will be taken.

1.2.2.3 In the second half of JFY 1988, the Government of Japan will introduce a system through which it will grant import licenses for imports of single strength orange juice in sufficient quantity to meet demand for use within hotels in Japan.

1.2.2.4 In JFY 1988, the Government of Japan will grant import access for single strength orange juice and orange juice mixtures in commercially viable quantities. In JFY 1989 through 1990, a first-come-first-served system will be introduced for incremental access.

2. Beef

2.1 On April 1, 1991, the import allocation system on beef will be terminated. Consequently, the Livestock Industry Promotion Corporation (LIPC) will no longer be involved in the pricing, purchase or sales of imported beef, nor is it the intention of the Government of Japan to establish any similar organization for that purpose.

2.2 [ACCESS IMPROVEMENT MEASURES PRIOR TO THE TERMINATION OF THE IMPORT ALLOCATION SYSTEM] During the transitional period preceding the termination of the import allocation system (JFY 1988 - JFY 1990), market access will be improved through the following measures.

2.2.1 The total market access for beef will be increased to the following levels.

	(metric tons)
JFY 1988	274,000
JFY 1989	334,000
JFY 1990	394,000

2.2.2 [TARIFF AND IMPORT MARKUP] During the transitional period preceding the termination of the import allocation system, the tariff on beef will be maintained at 25 percent ad valorem. Efforts will be made to compress the average level of import markup by the LIPC to a level below that of JFY 1986.

2.2.3 All imports of beef will receive equal, non-discriminatory treatment without regard to its country of origin and without regard to whether it is grass-fed or grain-fed.

2.2.4 [SBS] The share of imported beef transacted under the SBS system in the annual purchase of imported beef by and through the LIPC will be increased to the following ratios. Therefore, the absolute amount of beef handled through LIPC general tender purchases will decline from JFY 1987 levels.

JFY 1988	30%
JFY 1989	45%
JFY 1990	60%

(See the Attachment for more technical matters.)

2.2.5 [HOTEL IMPORT ALLOCATION] During the transitional period prior to the termination of the import allocation system, the Government of Japan will maintain the Hotel Import Allocation System, which constitutes part of the total market access, and increase such allocations to the following levels.

(metric tons)

JFY 1988	10,000
JFY 1989	13,000
JFY 1990	16,000

2.2.6 [DDQ] The Demand Development Quota will be terminated from the second half of JFY 1988 allocation.

2.2.7 [EDIBLE OFFALS] On and after October 1, 1988, no edible offals will be subject to import allocation system. Tongue trimmings will be reclassified as tongue, which is not subject to an import allocation system. The tariffs on edible offals will not be raised unless otherwise duly negotiated, bilaterally or in the Uruguay Round.

2.3 [POST-LIBERALIZATION BORDER MEASURES]

2.3.1 Normal Tariff Rate

The Government of Japan will implement tariff rates in accordance with the following schedule:

JFY 1991	70%
JFY 1992	60%
JFY 1993	50%

2.3.2 Emergency Adjustment Measures:

2.3.2.1 If imports of beef increase to such an extent that the volume is likely to exceed the following level, the Government of Japan will request consultations with the governments concerned including the United States Government with the objective of limiting the import level within the said level, and take necessary measures in accordance with the result of the consultations.

When the Government of Japan makes this request for consultations, it will make an official announcement to that effect.

The level:

- i) JFY 1991 the amount equivalent to 120%
 of whichever is the greater of
 the following:
 - a) the market access for JFY
 1990, or
 - b) the amount of the import
 recorded in JFY 1990.

- ii) JFY 1992 the amount equivalent to 120%
 of whichever is the greater of
 the following:
 - a) the level for JFY 1991 as
 mentioned in i), or
 - b) the amount of the import
 recorded in JFY 1991.

- iii) JFY 1993 the amount equivalent to 120%
 of whichever is the greater of
 the following:
 - a) the level for JFY 1992 as
 mentioned in ii), or
 - b) the amount of the import
 recorded in JFY 1992.

2.3.2.2 If agreements are not reached with all the governments concerned including the United States within 30 days after the request for the above-mentioned consultations, and when imports in the fiscal year exceed the level as mentioned in 2.3.2.1, the following adjusted tariff rate will be applied from a date set by the Government of Japan, which will be over 45 days after the date on which the Government of Japan requested consultations, until the end of the same fiscal year.

JFY 1991	95%
JFY 1992	85%
JFY 1993	75%

2.3.2.3 In addition to the above, the concrete implementation of emergency measures will be made in accordance with the Attachment.

The normal tariff rate for and after JFY 1994 will not be raised above the tariff level for JFY 1993 and will be subject, at that level, to tariff negotiations in the Uruguay Round.

2.3.3 On and after JFY 1994, border measures will be consistent with the result of the negotiations in the Uruguay Round and the GATT rules including rules for trade in agricultural products.

3. TARIFFS

The Government of Japan will reduce the tariff rates on the following items subject to necessary domestic procedures.

<u>H.S.No.</u>	<u>Items</u>	<u>Current Rate</u>	<u>New Rate</u>	<u>Planned Date</u>
0802.50	pistachios	9%	0%	April 1, 1989
0802.90ex	pecans	9%	5%	"
0802.90ex	macadamia nuts	9%	5%	"
0811.90ex	frozen peaches	20%	10%	"
0811.90ex	frozen pears	20%	10%	"
0805.30ex	lemons	5%	0%	"
0805.40	grapefruit			
	December 1- May 31	25%	15% 10%	" April 1, 1990
	June 1- November 30	12%	10%	April 1, 1989
0802.31 0802.32	walnuts	16%	10%	"

The above reduced tariff rates will not be raised unless otherwise duly negotiated bilaterally or in the Uruguay Round.

4. OTHER

4.1 The Government of Japan will not broaden the scope of the existing quantitative or other restrictions on these products.

4.2 Notwithstanding the above, the Government of Japan reserves the right to take measures consistent with Article XIX of the General Agreement on Tariffs and Trade.

4.3 With respect to certain prepared and preserved beef and other preparations, the Government of Japan will take the measures specified in the Attachment.

ATTACHMENT

I. Beef

1. [SBS]

(1) The number of price band categories will be reduced to twelve, and price bands within each category will be of equal width.

(2) Chilled beef will be included in SBS.

(3) SBS announcements will be made at least six times per year, with a minimum of three announcements in the last half of JFY 1988.

(4) Regarding participants in the SBS transaction procedure:

(a) For the ten percent of the annual purchase of imported beef by and through the LIPC, participants will be the parties now participating in SBS.

(b) For all other quantities to be handled through the SBS transaction procedure:

(i) For half of this increase, any importer who is associated with a registered user-association, regardless of prior experience in handling or importing beef, will be eligible to participate in SBS.

(ii) For the other half, any end-user who is associated with a presently registered importer, regardless of prior experience in handling beef, including associations and/or firms not now eligible, will be eligible to participate in SBS.

(iii) In any event, foreign participants in SBS will be limited to juridical persons established in Japan under Articles 479 and 480 of the Commercial Code of Japan.

(iv) No registered user-association mentioned in (i) or registered importer mentioned in (ii) may bid for more than ten percent of each announcement.

2. [INFORMATION]

The Government of Japan will publish after each LIPC general tender and SBS announcement respectively, the names of the recipient associations and the volume purchased by each association. The criteria for eligibility for participation in SBS and LIPC general tenders will be published annually.

3. [HOTEL IMPORT ALLOCATION SYSTEM]

The Government of Japan will publish in advance the amount of access available under the Hotel Import Allocation System and will provide information on the total amount allocated and imported.

4. [EMERGENCY MEASURES]

(1) When the Government of Japan requests consultations as referred to in 2.3.2.1 the Government of Japan, upon the request from governments concerned, will present the explanation for the domestic beef industry, which applies correspondingly to the example of Article 8(H) of the Arrangement between the Government of Japan and the Government of the United States of America concerning Trade in Cotton, Wool, and Man-made Fiber Textiles between Japan and the United States of America.

(2) When agreements are reached in the consultations as referred to in 2.3.2.1 and necessary measures are implemented, sufficient consideration will be given to beef which has already been shipped or is about to be shipped during the period from 45 days before the implementation to the day of the implementation, so that it will be excluded from the restriction.

II. Citrus

[CONCENTRATED ORANGE JUICE BLENDING REQUIREMENT]

For JFY 1988, since 8,500 metric tons out of 15,000 metric tons has already been licensed for imports, the following formula will be applied.

2,850 metric tons	free of blending requirement
650 metric tons	up to 90% imported orange juice
3,000 metric tons	up to 50% imported orange juice

For JFY 1989, the following formula will be applied.

60%	free of blending requirement
10%	up to 90% imported orange juice
30%	up to 50% imported orange juice

Concentrated orange juice is the only juice product that will be subject to any blending or mixing requirement.

III. Prepared and preserved meat and meat products of bovine animals or pigs

1. The schedule of import allocation system termination and tariff rates is given in the attached table. The tariff rate on and after JFY 1994 on item IV.3 of the attached table, certain prepared and preserved beef, will not be raised above the level for JFY 1993, and will be subject, at that level, to the tariff negotiations in the Uruguay Round. The tariff rates specified for other items, in the right column of the attached table, will not be raised unless otherwise duly negotiated bilaterally or in the Uruguay Round.
2. In the period before termination of the import allocation system, the Government of Japan will improve market access for these products as follows:

(1) "Corned beef in air-tight containers" and "Corned beef in vacuum-packed containers" will be combined to be "Corned beef". Access for this category will be increased to the following levels:

JFY 1988	2,000 metric tons
JFY 1989	3,000 metric tons

(2) Access for "beef jerky (strips)" will be increased to the following levels:

JFY 1988	300 metric tons
JFY 1989	500 metric tons

(3) An interim planned access for beef preparations other than "Corned beef", "Beef jerky (strips)" and "Boiled beef" will be established at the following levels:

JFY 1988	3,500 metric tons
JFY 1989	4,500 metric tons

(4) The Okinawa special allocation on beef preparations in air-tight containers will be 1,100 metric tons for JFY 1988 and for JFY 1989.

(5) The import allocation for boiled beef will be 7,000 metric tons for JFY 1988, and 8,000 metric tons for JFY 1989.

(6) With respect to the import allocation systems mentioned in paragraphs (1) through (3) above, the Government of Japan will grant import access to any existing importer or new importer, including those who have not imported prepared and preserved beef products

before. A certain portion of the market access will be allocated to newcomers.

- 3.. The Government of Japan will reduce the tariff rates on the following items subject to necessary domestic procedures. These reduced tariff rates will not be raised unless duly negotiated bilaterally or in the Uruguay Round.

<u>HS No.</u>	<u>CCCN No.</u>	<u>Items</u>	<u>Existing Tariff Rate</u>	<u>New Tariff Rate</u>
23.09.10ex	23.07-251	Bulk pet food	12%, 15%	Apr.1, 1989
23.09.90ex	23.07-210	Pet food in package for retail but not in air-tight container		0%
1601.00	16.01-000	Sausage and beef jerky (minced/ground)	25%	Apr.1, 1989
1602.50ex	16.02-234 ex	Beef jerky (strips)	25%	10%
2005.51ex 2005.90ex	20.02-110 ex	Pork and beans	28%	Apr.1, 1989 14%

TABLE: PREPARED AND PRESERVED MEAT AND MEAT PRODUCTS

<u>Products</u>	<u>CCCN No.</u>	<u>HS No.</u>	<u>Termination of Import Allocation System</u>	<u>Existing Tariff Rate</u>	<u>Tariff Rate After Termination of Import Allocation System Unless Otherwise Specified</u>
1. Homogenized preparations	1602ex	1602.10ex	Oct. 1, 1988	25%	25%
2. Preparations of internal organs and tongue	1602ex	1602.20ex 1602.50ex	Oct. 1, 1988	25%	25%
3. Preparations of meat and meat offals other than those of bovine animals or pigs, containing those of bovine animals	1602-232ex, 1602-234ex, 1602-235ex, 1602-236ex	1602.31ex, 1602.39ex, 1602.90ex	Oct. 1, 1988	25%	25%
4. Preparations of meat and meat offals of bovine animals or pigs, containing less than 30 percent meat and meat offals of bovine animals without added moisture	1602-232ex, 1602-234ex, 1602-235ex, 1602-236ex	1602.49ex, 1602.50ex	Oct. 1, 1988	25%	25%
5. Meat and meat offals of bovine animals, dried after having been simply boiled in water	1602-210	1602.50ex	Oct. 1, 1988	25%	25%
6. Pasta stuffed with meat and meat offals of bovine animals	1602ex	1902.20ex	Oct. 1, 1988	25%	25%
11. 1. Preparations of meat and meat offals of pigs (containing 30 percent or more meat and meat offals of bovine animals without added moisture)	1602-235ex, 1602-236ex	1602.49ex	April 1, 1989	25%	25%
2. Preparations of meat and meat offals of bovine animals in air-tight containers (containing vegetables)	1602-232ex	1602.50ex	April 1, 1989	25%	25%
111. Preparations of meat and meat offals of bovine animals, in air-tight containers, shelf-stable without refrigeration (excluding those containing vegetables, and corned beef)	1602-232ex	1602.50ex	April 1, 1990	25%	45%

IV. 1.	Beef jerky	1602-234ex	1602.50ex	April 1, 1990	25%	From JFY 1989: 10%
2.	Corned beef	1602-231, 1602-234ex	1602.50ex	April 1, 1990	25%	25%
3.	Certain prepared and preserved beef (as defined in IV(9) of this Attachment)	1602-232ex, 1602-233, 1602-234ex	1602.50ex	April 1, 1990	25%	JFY 1990: 70% JFY 1991: 70% JFY 1992: 60% JFY 1993: 50%

Note: The products under the Okinawa Special Allocation System on Beef Preparations in Air-tight Containers will cease to be subject to this allocation system on the dates of the termination of the respective import allocation systems indicated in the above table. This special allocation system will be totally terminated on April 1, 1990.

IV. DEFINITIONS

For the purpose of the Annex and this Attachment hereto:

1. "Fresh oranges" means fresh oranges and tangerines, and provisionally preserved oranges and tangerines, classified under numbers 0805 and 0812 of the Japanese customs tariff schedules.
2. "Concentrated orange juice" means concentrated orange juice which is to be used as materials for further processing or repacking in Japan, and is imported in containers of 4 liters or more. For the purpose of determining the volume of imports in relation to the amount of licenses, "5 to 1 concentrate" means concentrate of 58 degrees Brix or equivalent.
3. "Single strength orange juice" means either
 - (1) Unconcentrated orange juice ordinarily of 10 to 17 degrees Brix imported for final consumption, in containers below 20 liters,
 - or
 - (2) Concentrated orange juice ordinarily of 42 degrees Brix imported for final consumption, in containers below 4 liters, which have dilution instructions to be labeled or printed on the surface of containers or shipping documents and which are not to be used as materials for any further processing or repacking.
4. "Orange juice mixtures" means final products for consumption of either unconcentrated or concentrated juice mixtures which contain 30% or more of orange juice, but contain less than 70% of orange or other citrus juice except for grapefruit, lemon or lime juice which are already liberalized, and, moreover, excluding such products containing 50% or more of pineapple juice; and imported in containers below 20 liters for unconcentrated, or imported in containers below 4 liters for concentrated.

5. "Users" eligible for the application of import allocation of concentrated orange juice are those who produced in JFY 1987 or who have plans to produce in the years of allocation from JFY 1988 through JFY 1991, end user packs of beverages containing orange juice made from imported concentrated orange juice in their own factories or under contract with other factories.

6. "Hotels" referred to in 1.2.2.3 of the Annex means those hotels which are members of the Japan Hotel Association or the Japan Business Hotel Association.

7. "Beef" means meat of bovine animals, fresh, chilled or frozen, classified under numbers 0201 and 0202 and cheekmeat and headmeat classified under 0206 of the Japanese customs tariff schedules.

8. "Edible offals" means meat of bovine animals classified under number 0206 of the Japanese customs tariff schedules except cheekmeat and headmeat.

9. "Certain prepared and preserved beef" means preparations classified under number 1602.50 of the Japanese customs tariff schedules, excluding preparations of internal organs and tongues, preparations containing beef less than 30%, beef dried after having been simply boiled in water, prepared beef in air-tight containers (containing vegetables), beef preparations in air-tight containers shelf-stable without refrigeration, beef jerky, and corned beef.

10. "Restriction" referred to in 4.1 of the Annex means any direct or indirect limitation which is inconsistent with the GATT, whether made effective through quotas, licenses, permits, minimum price requirements, administrative guidance or any other means.