

**U.S. Food and Agriculture Dialogue for Trade  
Comments on the Negotiating Objectives for a  
U.S. - Japan Trade Agreement  
Docket Number USTR-2018-0034  
November 26, 2018**

The U.S. Food and Agriculture Dialogue for Trade Asia-Pacific Working Group, comprised of more than 100 organizations representing America’s farmers, ranchers, processors, agri-businesses and manufacturers of human food and animal feed, respectfully submits these comments in response to the request to identify general and product-specific negotiating objectives; relevant barriers to trade in goods and services; economic costs and benefits to U.S. producers and consumers of removal or reduction of tariffs and non-tariff barriers; treatment of specific goods; customs and trade facilitation measures; sanitary and phytosanitary measures and technical barriers to trade and other trade-related measures or practices that undermine fair market opportunities.

We strongly support the Administration’s decision to engage in a U.S.-Japan trade agreement. Japan is a critically important trading partner for the U.S. food and agricultural sector. A trade agreement with Japan that is free from tariff and non-tariff barriers will provide significant economic growth opportunities and jobs for our sector as well as benefits to consumers.

We recognize that our competitors in other countries will soon gain preferential access to the Japanese market as a result of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the EU-Japan Economic Partnership Agreement (EU-Japan EPA). Matching or improving market access from competing regional and bilateral agreements must be a key negotiating priority in the U.S.-Japan agreement. To this end, the agreement should include “catch-up clause” provisions that result in accelerated phase-in of tariff cuts or other concessions to ensure that market access for all U.S. food and agricultural products are on a level playing field with their respective competitors in the Japanese market.

While ideally the negotiations should aim to eliminate and/or phase out all existing tariffs and tariff-rate quotas, at a minimum market access provisions with Japan should match or improve on those achieved under the CPTPP and EU-Japan EPA.

It is essential that the U.S. Government conclude negotiations expeditiously that deliver meaningful outcomes on our priority negotiating objectives.

**Product Specific Negotiating Priorities**

*Wheat:* The top priority for U.S. wheat farmers is additional market access that would prevent devastating losses due to preferential advantages negotiated by other countries as part of the CPTPP and EU-Japan EPA agreements. In particular, under CPTPP Japan agreed to reduce its resale mark-up on CPTPP-origin wheat by 45 percent over nine years, meaning wheat from the United States will eventually command a massive premium over CPTPP members. This is an urgent priority as these mark-up reductions are supposed to begin with CPTPP's entry-into-force.

*Beef:* US exports of beef are on track to reach \$2 billion this year, despite Japan's 38.5% tariff. However, when CPTPP takes effect on December 30, 2018, Canada and Mexico will enjoy immediate tariff reductions to 27.5% -- an 11% advantage over US exporter, and a rate already enjoyed by Australia due to its bilateral FTA. That rate will decline to 9 % over 16 years for all CPTPP members. The U.S. beef industry's primary objectives during the negotiations will be to eliminate the quarterly safeguard mechanism for chilled/frozen beef and phase out import tariffs, to at a minimum ensure U.S. beef faces the same tariffs as competitors upon implementation of a U.S.-Japan trade agreement. Since the U.S. is now classified as "negligible risk" in the OIE for BSE, all U.S. beef products should be eligible for import into Japan in a reasonable timeframe. The U.S. beef industry should at the very least receive the same tariff benefits that its competitors will receive under CPTPP which provides for a reduction in tariffs from 38.5% to 27.5% on beef imports when it enters in to force and then a further reduction to 26.6% at the beginning of Japan's fiscal year on April 1, 2019. Tariff rates will continue to decline to 9% in year 16 of the agreement. These are competitive disadvantages the U.S. beef industry cannot overcome unilaterally and will result in lost exports and market share for U.S. firms in the future. In addition to reducing the tariff on chilled and frozen beef, the negotiations should seek to phase out Japan's tariffs on U.S. imports of other commercially important beef products, some of which are not widely consumed domestically, such as variety meats (notably tongues and skirt meat, two high-volume export items to Japan) and processed beef products. In addition to the tariff reductions, Japan has also eliminated the quarterly safeguard mechanism and progressively increased the aggregate annual safeguard volume of imports of beef originating from all the CPTPP members and reduced the safeguard trigger duty in years 1 through 3 from 50% to 38.5% and to 30% in years 4 through 10, then 20% for years 11 through 14, 18% in year 16 and by a further 1% annually thereafter (the safeguard is operated quarterly in years 11-15). The U.S. is the only significant beef supplier to Japan that remains subject to the quarterly safeguard mechanism. All other competitors are subject to relatively large annual safeguards, that are not likely to trigger, and with snapback duties that are at or below the 'normal' rate charged on U.S. beef.

*Pork:* Japan is the largest market for U.S. pork exports by value, despite facing import tariffs as high as 20 percent and the extremely onerous gate price system. Through September 2018, exports were up 2% in volume over 2017 to 295,347 MT, and value increased 2% to \$1.2 billion. The U.S. pork industry's primary objectives during the negotiations will be to phase out import tariffs, eliminate the quarterly safeguard mechanism and return U.S. pork to a level playing field upon implementation. These changes will provide the U.S. industry with new opportunities in an already mature, flourishing market. Without urgent agreement and implementation of a U.S.-Japan trade agreement, the U.S. pork industry will lose significant market share in its top value market. The U.S. pork industry should at the very least receive the same tariff benefits that its competitors will receive under the CPTPP and the Japan-EU EPA which phase out tariffs on processed pork and the ad valorem tariff on chilled/frozen pork entering above the gate price. Additionally, the maximum specific duty for product entering below the gate price will be phased down over a 10 year period to 37.5 Yen per Kg for carcasses and half carcasses and 50 Yen per Kg for other pork cuts. Annual safeguards during the implementation period are based on a growth factor above the prior 3-year high and have low snapback duties (specific annual volume safeguards are used in years 5-11 for product entering with a value below 400 yen/kg).

*Grain products:* In addition to maintaining its zero duty on imports of corn for feed, an existing 3 percent tariff applied to a specific in-quota tariff line for corn other than feed should be eliminated immediately. For starches, Japan needs to create new country specific quotas that replicate those in TPP as well as expand its current WTO tariff-rate quota (TRQ) for starch by a minimum of 7,500 tons. U.S. corn for industrial use should continue to enter Japan duty free under an autonomous quota of 3.75 million metric tons (MMT). Within this quota, Japan should allocate a semi-annual import quota specifically for corn used to produce starch. This should include corn for starch, corn flakes, distilled spirits, and on farm-feed use, as well as sweeteners that can be used for substitutes for sugar. Imports outside the quota should face minimum tariffs. Corn gluten feed imports are tariff free and should remain so similar to CPTPP. U.S. exports of DDGs already receive duty-free treatment in Japan and like CPTPP should remain duty free under a bilateral agreement. Japan currently maintains a 1.37-million-metric-ton World Trade Organization (WTO) tariff-rate quota (TRQ) for barley and processed barley grains. With respect to sorghum, Japan's tariffs, which are as high as 3 percent, would have been eliminated immediately. The government employs various measures through registration and licensing, discouraging access to duty-free grain by unlicensed processors and individual livestock farms. Revisions to or adjustments of the government measures would raise competitiveness of the livestock industry in Japan.

*Soybeans and Soybean Products:* Japan is the fifth-largest market for U.S. soybean exports with shipments valued at \$976 million in 2017. Japan's World Trade Organization (WTO) commitments provide duty-free treatment for soybeans and soybean oilcake imports, while tariffs on other soybean products are as high as 20 percent. However, the demand for soybeans for crushing should remain strong. With a 73 percent market share, the United States is the largest soybean supplier to Japan. Brazil, Japan's second largest soybean supplier, holds a 16 percent market share. Tariffs on soybean products such as soybean oil are as high as 21-percent. These tariffs, currently as high as 13.2 yen per kilogram (approximately 20.8 percent ad valorem equivalent), would have been eliminated in six years under TPP. Japan's imports of U.S. soybean oil were valued at \$7 million in 2017. Japan would have also gradually eliminated its 4.2-percent tariff on soybean flour with oil residue, 5.1 percent tariff on soy protein with protein content over 90%, and 10.6 percent tariff on soy protein with protein content between 80-90 percent under CPTPP. As for soybean meal, there is no tariff. Japan's imports of U.S. soybean meal were valued at \$107 million in 2017. As such we would expect the same deal or better in the U.S.-Japan trade agreement.

*Dairy Products:* The Joint Statement of the United States and Japan of September 26, 2018 (Joint Statement) appears to place a ceiling on the level of agricultural ambition before negotiations have commenced. The results of an FTA should be determined through the course of negotiations with the U.S. working to achieve the high-standard, market-opening outcomes outlined under Trade Promotion Authority and secured in most prior U.S. trade treaties for agriculture without prejudging the outcome. To the extent the U.S.-Japan Joint Statement curtails a fully ambitious market opening, however, the U.S.-Japan Trade Agreement should secure the better of the two outcomes in the CPTPP or EU-Japan EPA for each tariff line, to achieve the largest of the two outcomes for TRQ volumes and/or the shortest tariff phase-out timing as well as an accelerated phase-in of tariff cuts to ensure the U.S. is on a level playing field with the EU, Australia and New Zealand. Further, to the extent that the U.S.-Japan Trade Agreement falls short of full liberalization with respect to Japanese market access for U.S. dairy products, U.S. market access

for Japanese dairy products should be treated in a strictly reciprocal fashion, on a ton-for ton basis for each product category. This was a shortcoming of the CPTPP that should not be repeated. In addition, the U.S. should use this opportunity to address existing SPS concerns that threaten to disrupt access to the Japanese market if not properly resolved, such as Japan's recent announcement that it will introduce new import certification requirements for dairy products.

*Potato products:* The U.S. potato industry seeks an agreement that eliminates tariffs on all U.S. potato exports and establishes phytosanitary processes to allow improved market access for U.S. potato exports to Japan based on sound science. Japan imposes an 8.5% tariff on U.S. frozen fries and tariffs ranging from 9 to 20% on U.S. dehydrated potato exports. Japan's tariff on fresh potatoes is 4.3%. Because of the high volume of U.S. potato products shipped to Japan, these tariffs pose a considerable cost to the U.S. potato industry and constrain the growth of exports to the market. Under the CPTPP agreement and the EU-Japan EPA, Japan has committed to reduce and ultimately eliminate tariffs on fries and other potato products for other major potato exporting nations including Australia, New Zealand, Canada, and those in Europe. To ensure the U.S. potato industry is not at a competitive disadvantage, it is important that to secure the elimination of all tariffs on U.S. potato exports in the trade agreement with Japan. At a minimum, the U.S. potato industry seeks concessions that match and exceed those offered to these other potato exporting nations. The U.S. potato industry also supports the inclusion of strong sanitary and phytosanitary measures in any future U.S.-Japan trade agreement. Such an agreement will be needed to address long-standing and difficult market access issues, including those faced by U.S. potatoes. The U.S. potato industry has spent decades seeking expanded market access for U.S. fresh potatoes into the Japanese market. While some progress has been made, more is needed. A strong SPS chapter in the agreement would allow the U.S. government to challenge inappropriate quarantine barriers that prevent market access.

*Wine:* Japan is the 4<sup>th</sup> largest export market for U.S. wines, totaling \$94 million in 2017. Due to the importance of the market and the recent advantages gained by the EU and CPTPP countries, it is critical for the negotiations to conclude quickly. Soon Japanese tariffs on European wines will be eliminated, and CPTPP member countries such as Chile, New Zealand and Australia will have tariffs phased out over seven years. Between the two agreements, approximately 89% of wine imported into Japan will have tariff advantages over U.S. wine. Consequently, U.S. wine producers requests immediate elimination of tariffs related to wine and wine beverages (HS Codes 2204, 2205, and 2206) upon entry into force of a US-Japan trade agreement. This level of access would match the level Japan provided to EU wine producers in the recently concluded Japan-EU EPA. In addition, the agreement should establish a wine (alcohol) annex that addresses unjustified and unnecessary trade barriers, similar to the annex contained in the USMCA.

*Seed products:* The Parties should follow the International Standard for Phytosanitary Measures for Seed (ISPM 38) agreed to and ratified in April 2017 by the International Plant Protection Convention and provide a mechanism to facilitate its implementation.

*Almonds & Almond Products:* Japan is a longstanding and valued customer for California almonds, ranking as the #4 export destination in 2017, behind the European Union, India, and Hong Kong. U.S. exports to Japan have more than doubled over the most recent 10-year period, topping \$226 million in 2017. Given Japan's preferential trade agreements with competitor

countries, notably the Japan-Australia Economic Partnership Agreement and the soon-to-be-implemented CPTPP and EU-Japan EPA, it is imperative that the Administration undertake the negotiations with Japan on an expedited basis so that the eventual agreement can enter into force as quickly as possible. The eventual agreement should provide for the prompt elimination of Japan's existing import tariffs on almonds and almond products, preferably on an immediate basis upon entry into force of the agreement. The priority HTS tariff lines in Japan's schedule for almonds and almond products are as follows: in-shell almonds (0802.11200), shelled almonds (0802.12200), almond flour & meal (1106.30200), almond oil (1515.90510, 1515.90520), prepared & preserved almonds (2008.19222).

*Peanut products:* To obtain the same set of concessions from Japan for peanuts and peanut products as the U.S. achieved in the CPTPP negotiation, the tariff on shelled peanuts within-quota will be eliminated immediately upon implementation of the agreement. The over-quota tariff on shelled peanuts will be phased out over 8 years. The tariff on peanut butter will be eliminated in 6 years. The tariffs on processed peanuts, including honey roasted peanuts and fried peanuts, will be eliminated within 8 years or less. The tariff on peanut oil will be eliminated in 11 years.

*Meat by-products:* Japan's current tariffs on hides, skins and leather products are as high as 30 percent. These products are not considered sensitive to the Japanese industry and therefore the negotiations should seek to reduce those tariffs to zero either immediately upon implementation, or in a short, commercially meaningful phase in period.

*Distilled Spirits:* Since 2002, Japan has applied a zero tariff on imports of brandy, Bourbon, rye and other whiskies, rum, gin, vodka and liqueurs on a Most Favored Nation basis. The U.S. should secure Japan's agreement to apply a zero tariff on all U.S. spirits imports. In addition, Japan has bound at the WTO the zero-duty rate on brandy and whiskeys only. Thus, the U.S. government should seek Japan's renewed commitment to bind its tariff commitments with regard to rum, gin, vodka and liqueurs in the WTO as soon as possible, consistent with the terms of the 1997 settlement agreement with the United States, the European Commission and Canada (Japan – Taxes on Alcoholic Beverages: WT/DS8, WT/DS10 and WT/DS11). In addition, a U.S. – Japan Trade Agreement should include distinctive product recognition for “Bourbon,” “Tennessee Whiskey” and “American Rye Whiskey.” Finally, the Japanese and U.S. governments should establish within the agreement a Beverage Alcohol Annex on labeling and certification similar to the annex included in the USMCA.

*Food additives & flavorings:* US-Japan trade negotiations should address import restrictions and limitations on the use of certain food additives and/or other technical barriers to trade; acceptance by Japan of flavors vetted for safety by groups such as the FEMA GRAS panel, FDA, ESFA and other government bodies; and dedication by Japan of adequate technical resources to facilitate regulatory review and approval as a means of addressing U.S. commercial interests.

*Ethanol:* U.S.-Japan trade negotiations should level the playing field for American corn ethanol and create enhanced opportunities for corn ethanol exports to Japan. Japan currently allows a maximum volume of U.S. ethanol imports relative to the volume of Brazilian ethanol to meet a 55 percent emissions reduction target. Based on the government's calculation to determine the volume of ethanol that meets this greenhouse gas (GHG) reduction target, U.S. corn-based ethanol

may supply up to 44.44 percent (or 366 million liters) of Japan's mandate for bio-ethanol. The value of this volume is approximately \$170 million at 2017 U.S. export prices. While changes made in April 2018 to Japan's recently issued renewable fuel regulations are an important and positive step forward for the American ethanol industry export opportunity and Japan's energy and climate security, the threshold set for GHG emissions reductions is at a level based on outdated data and should be revised from a 55 percent to a 50 percent reduction requirement which would be consistent with global industry standards and reflective of current scientific data. Industry experts project that by using current scientific data the market share for American corn ethanol would increase from 44 percent to 91 percent, an increase of \$150-\$200 million dollars in ethanol exports, using global standards. Separately, in the CPTPP Japan eliminated its 27.2% tariff on over 90% denatured ethanol for other purposes than beverage and industrial in eight years and eliminated its corresponding 10% tariff on over 90% ethanol for other purposes than beverages and industrial uses in 11 years. U.S. ethanol producers should benefit from similar tariff reductions in the U.S.-Japan trade agreement.

### **Sanitary and Phytosanitary Measures**

Consistent with Chapter 7 of the CPTPP, the U.S.-Japan Agreement should include a Sanitary and Phytosanitary (SPS) chapter laying out more detailed commitments relating to human health and animal/plant safety issues which would go beyond those in the World Trade Organization (WTO) SPS Agreement. The CPTPP SPS chapter was used in negotiations for the U.S.-Mexico-Canada Agreement (USMCA) that resulted in the highest standard of any trade agreement and should serve as the basis for negotiations with Japan.

The agreement should include critical key improvements made in the CPTPP SPS chapter: Strengthening disciplines on science and risk analysis; Provisions on "equivalence in regulatory systems; Disciplines on Import Checks; Transparency in rulemaking; and Adoption of trade facilitative mechanisms for establishing standards for residue levels and adventitious presence.

The U.S.-Japan Trade Agreement should build on the SPS provisions of the USMCA that go beyond what the SPS chapter has previously contained in any past U.S. FTA. Those provisions help provide for more transparency and more scientific grounding for countries' SPS rules while also creating a forum to resolve concerns that still arise.

The agreement should include the USMCA provisions, particularly, Article 9.6: Science and Risk Analysis; Article 9.7: Enhancing Compatibility of Sanitary and Phytosanitary Measures; Article 9.9: Equivalence; Article 9.10: Audits; Article 9.11: Import Checks; 9.12: Certification; Article 9.13: Transparency; Article 9.14: Emergency Measures; Article 9.15: Information Exchange; Article 9.16: Cooperation; Article 9.17: Committee on Sanitary and Phytosanitary Measures; Article 9.18: Technical Working Group; and Article 9.19: Technical consultations; and Article 9.20: Dispute Settlement.

In addition, pest risk analysis processes should be open to public comments from any Party and supporting documentation should be provided to interested persons in a timely fashion after the final regulation is approved, when requested by an exporting Party. The Parties should share notices of final SPS measures prior to enactment and publish them in an official journal or website

immediately after the measure is adopted to ensure exporters are aware of and can comply with a Party's requirements.

### **Biotechnology**

We support provisions similar to those in the CPTPP and the USMCA that increase transparency; provide notification of national laws and regulations pertaining to products of agricultural biotechnology products; include benchmarking goals; and provide flexibility to include new innovations as they develop. With the increased capability of using plant breeding innovations or gene editing techniques for agricultural products, establishing compatible regulatory approaches to ensure trade continues without disruption is essential. Japan and the U.S. have an opportunity to lead the way on promoting innovation and utilization of these techniques that hold tremendous promise for many farmers and consumers around the world.

The agreement should include provisions that commit parties to foster transparency and science-based regulations in their decision-making process; promote timely authorization of products of modern biotechnology; establish common procedures to follow when low level presence or trace amounts of a biotech material is detected in a shipment of agricultural commodities or food products; commit to exchange certain information, including product risk assessments and new plant authorization; establish policies covering innovations in plant breeding such as genome editing methods; and establish a Biotechnology Working Group to exchange information, including on existing and proposed domestic laws, regulations and policies affecting trade in agricultural biotechnology products.

There should be recognition of modern biotechnology and the regulatory implications of both *in vitro* nucleic acid techniques, including recombinant deoxyribonucleic acid (rDNA), direct injection of nucleic acid into cells, and fusion of cells beyond the taxonomic family, that overcome natural physiological reproductive or recombinant barriers and that are not techniques used in traditional breeding and selection.

The agreement should make binding provisions that were included in the USMCA covering Trade in Products of Agricultural Biotechnology; Article 3.B.4: LLP Occurrence to establish an approach to reduce the likelihood of disruptions to trade in products of agricultural biotechnology; and Article 3.B.5: Working Group for Cooperation on Agricultural Biotechnology that provides a forum to exchange information on a number of issues, including risk or safety assessments.

Finally, we support a mutual recognition agreement with Japan on the safety determination of biotech crops intended for food, feed, and further processing.

### **Rapid Response Mechanism**

The US and Japan should adopt a rapid response mechanism (RRM) which is an unbiased, timely, and transparent means for quickly resolving disagreements on application of standards. An RRM is critical to prevent trade disruptions and avoid turning these issues into formal government-to-government disputes, particularly in perishable and time sensitive shipments of agricultural products, by establishing a deliberate, consultative oversight process that works to manage and

resolve SPS and TBT disputes to limit trade frictions in a timely manner. This would help to eliminate the often ineffective and protracted government led-process to work bilaterally or through the WTO to resolve these disputes, and include a substantive role for the business sector to help resolve issues. The RRM should include both immediate detailed notification to the importer or exporter of record (shipper or consignee) of risk detection, assessment, and management measures and expedited review. A notification that details methodology, findings, enabling authority and recourse or compliance measures related to the action should be provided by the official body within three days of request by either the importer or exporter of record. The notification should provide for further review of actions that are acceptable to the relevant official body that may resolve the dispute or mitigate its impact on commerce. The importer or exporter of record can also request an expedited review – completed in 15 days by neutral experts previously identified by Parties to the trade agreement – that results in a non-binding, public recommendation (absent business confidential information) to resolve the dispute.

### **Technical Barriers to Trade**

The Technical Barriers to Trade chapter should build on the WTO TBT agreement and the USMCA TBT provisions to ensure that the TBT measures in a U.S.-Japan trade agreement facilitate trade, including eliminating unnecessary technical barriers to trade; prevent unjustifiable trade-related restrictions on marketing, branding, or intellectual property rights; enhance transparency; and promote greater regulatory cooperation and good regulatory practices.

The US-Japan trade agreement should contain provisions that require parties to parties to apply decisions and recommendations adopted by the WTO TBT Committee that apply to standards, conformity assessment, transparency, and other areas, require transparency and public consultation. Parties should publish drafts of technical regulations and conformity assessment procedures and allow stakeholders in both countries to provide comments. There should be a Committee on Technical Barriers to Trade to monitor and strengthen implementation of the Chapter, to support coordination between the parties, and to encourage the exchange of information.

### **Protection of Commonly Used Food Names**

The U.S.-Japan Trade Agreement should incorporate and further build upon the advances made in the USMCA with respect to commonly used food names and geographical indications (GIs), including USMCA provisions: establishing opposition procedures; establishing a non-exhaustive market access list of terms that may not be restricted; mandating that the parties try to reach a “mutually agreeable solution” before recognizing any GIs under a trade agreement with another country; and clarifying that the term “prior users” in other FTAs includes actors throughout the supply chain (producers, importers, exporters, marketers, and distributors).



## **Other Negotiating Objectives:**

### **Import and Export Restrictions**

To build on the CPTPP, the negotiations should ensure that countries do not maintain or expand other discriminatory trade barriers at the same time that they are eliminating tariffs or and do not invent new barriers to circumvent obligations. The chapter on *National Treatment and Market Access for Goods* should incorporate the broad WTO obligations regarding import and export restrictions into CPTPP as the fundamental framework for trade in goods between the Parties. In addition, the Goods chapter should prohibit import licensing conditioned on either (a) performance requirements, or (b) contractual relationships between exporters and domestic distributors.

### **Performance Requirements**

A bilateral U.S.-Japan agreement should prohibit Parties from using performance requirements as a condition of qualifying for reduced tariffs. Performance requirements impose obligations on companies, such as requiring that a certain level of goods or services be exported or that domestic goods and/or services be used in order to obtain preferential treatment for their imports.

### **Import Licensing**

The agreement should include requirements for Parties to notify each other of their import licensing procedures, including any conditions and eligibility requirements, and to regularly update these notifications. In addition, Parties should not apply import licensing procedures to bilateral goods without notifying all Parties of such procedures and the reasons for them.

### **Agricultural Export Subsidies**

The agreement should contain a commitment by all Parties to eliminate agricultural export subsidies—which are considered among the most trade-distorting agricultural trade measures—on goods sold in both markets.

### **Domestic Supports**

To ensure transparency of domestic support programs, Parties should use domestic support measures with minimal or no effects on trade or production.

### **Agriculture Safeguards**

Originating agricultural goods traded under preference from any party should not be subject to any duties applied by a party pursuant to a special safeguard taken under the Agreement on Agriculture.

### **Food Security Export Restrictions**

Provisions should (a) limit export restrictions on foodstuffs to 6 months; (b) require notification of both Parties in advance when a country imposes such restrictions; and (c) mandate consultation with interested importing countries if the restriction exceeds 6 months.

### **State Trading Enterprises**

The negotiations should include provisions to agree to work together in the WTO to improve transparency around the operations of agricultural export state trading enterprises and agree on rules preventing these enterprises from receiving special governmental financing or trade-distorting restrictions on exports.

### **Good Regulatory Practices**

The agreement should include provisions to foster and open, a fair and predictable regulatory environment for U.S. businesses promoting the use of widely-accepted good regulatory practices including core principles such as transparency, impartiality and due process as well as coordination across governments to ensure a coherent regulatory approach.

### **Customs Administration and Trade Facilitation**

The agreement should build on the USMCA, CPTPP and the WTO Trade Facilitation agreements to help ensure that goods will move quickly across borders, governed by facilitative and transparent procedures that require customs authorities to treat goods fairly and reduce conflicts of interest in customs administration.

### **Dispute Settlement**

The priorities described above are much less meaningful without strong enforcement mechanisms. No party should be able to block adoption of a dispute settlement decision. If there are genuine areas of disagreement they should be addressed bilaterally, but not through a mechanism that gives either side the ability to block decisions. Such a mechanism could easily be used against the United States, which is particularly concerning for competitive export-oriented industries like those represented in this submission.

In conclusion, we respectfully submit these comments on behalf of the U.S. Food and Agricultural Dialogue for Trade Asia-Pacific Working Group and look forward to working with the Administration to achieve the highest standards possible for a trade agreement with Japan that results in measurable benefits for American farmers, ranchers, processors, agri-businesses and manufacturers of human food and animal feed, workers and consumers.