

Auckland, February 4, 2016

Excellency,

In connection with the signing on this date of the Trans-Pacific Partnership Agreement (TPP 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 5(a) of Section E (Agricultural Safeguard Measure for WPC) of Appendix B-1 (Agricultural Safeguard Measures) to the Tariff Schedule of Japan to Annex 2-D (Tariff Commitments) to Chapter 2 (National Treatment and Market Access for Goods) of the TPP Agreement. Japan shall implement paragraph 5(a) in accordance with applicable laws and regulations of Japan to the extent those laws and regulations are consistent with the international obligations that apply between Japan and the United States, including those under the TPP Agreement and this letter and your letter of confirmation in reply.

1. Prior to imposing any agricultural safeguard measure under Section E (Agricultural Safeguard Measure for WPC) of Appendix B-1 (Agricultural Safeguard Measures) to the Tariff Schedule of Japan to Annex 2-D (Tariff Commitments) to Chapter 2 (National Treatment and Market Access for Goods) of the TPP Agreement, Japan shall undertake an assessment of whether either condition specified in paragraph 5(a) of Section E (Agricultural Safeguard Measure for WPC) of Appendix B-1 (Agricultural Safeguard Measures) to the Tariff Schedule of Japan to Annex 2-D (Tariff Commitments) to Chapter 2 (National Treatment and Market Access for Goods) of the TPP Agreement has been satisfied.

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

- (i) Japan's World Trade Organization quota for "designated dairy products for general use"; or
- (ii) a quota established under another free 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 5(a)(i) of Section E (Agricultural Safeguard Measure for WPC) of Appendix B-1 (Agricultural Safeguard Measures) to the Tariff Schedule of Japan to Annex 2-D (Tariff Commitments) to Chapter 2 (National Treatment and Market Access for Goods) of the TPP Agreement.

His Excellency
Mr. Michael B.G. Froman
United States Trade Representative

3. To ascertain whether the condition specified in paragraph 5(a)(ii) of Section E (Agricultural Safeguard Measure for WPC) of Appendix B-1 (Agricultural Safeguard Measures) to the Tariff Schedule of Japan to Annex 2-D (Tariff Commitments) to Chapter 2 (National Treatment and Market Access for Goods) of the TPP 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 and your letter of confirmation in reply shall constitute an agreement between our two Governments, subject to dispute settlement under Chapter 28 (Dispute Settlement) of the TPP Agreement, which shall enter into force on the date of entry into force of the TPP Agreement with respect to Japan and the United States.

Sincerely,

Handwritten signature in black ink, consisting of the characters '高鳥修一' (Takatori Shuichi) followed by a horizontal stroke.

Shuichi Takatori
State Minister of Cabinet Office of Japan

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

February 4, 2016

The Honorable Shuichi Takatori
State Minister of Cabinet Office of Japan
Tokyo, Japan

Dear State Minister Shuichi Takatori:

I am pleased to receive your letter of February 4, 2016, which reads as follows:

“In connection with the signing on this date of the Trans-Pacific Partnership Agreement (TPP 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 5(a) of Section E (Agricultural Safeguard Measure for WPC) of Appendix B-1 (Agricultural Safeguard Measures) to the Tariff Schedule of Japan to Annex 2-D (Tariff Commitments) to Chapter 2 (National Treatment and Market Access for Goods) of the TPP Agreement. Japan shall implement paragraph 5(a) in accordance with applicable laws and regulations of Japan to the extent those laws and regulations are consistent with the international obligations that apply between Japan and the United States, including those under the TPP Agreement and this letter and your letter of confirmation in reply.

1. Prior to imposing any agricultural safeguard measure under Section E (Agricultural Safeguard Measure for WPC) of Appendix B-1 (Agricultural Safeguard Measures) to the Tariff Schedule of Japan to Annex 2-D (Tariff Commitments) to Chapter 2 (National Treatment and Market Access for Goods) of the TPP Agreement, Japan shall undertake an assessment of whether either condition specified in paragraph 5(a) of Section E (Agricultural Safeguard Measure for WPC) of Appendix B-1 (Agricultural Safeguard Measures) to the Tariff Schedule of Japan to Annex 2-D (Tariff Commitments) to Chapter 2 (National Treatment and Market Access for Goods) of the TPP Agreement has been satisfied.

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

- (i) Japan’s World Trade Organization quota for “designated dairy products for general use”; or
- (ii) a quota established under another free 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 5(a)(i) of Section E (Agricultural Safeguard Measure for WPC) of Appendix B-1 (Agricultural Safeguard Measures) to the Tariff Schedule of Japan to

Annex 2-D (Tariff Commitments) to Chapter 2 (National Treatment and Market Access for Goods) of the TPP Agreement.

3. To ascertain whether the condition specified in paragraph 5(a)(ii) of Section E (Agricultural Safeguard Measure for WPC) of Appendix B-1 (Agricultural Safeguard Measures) to the Tariff Schedule of Japan to Annex 2-D (Tariff Commitments) to Chapter 2 (National Treatment and Market Access for Goods) of the TPP 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 and your letter of confirmation in reply shall constitute an agreement between our two Governments, subject to dispute settlement under Chapter 28 (Dispute Settlement) of the TPP Agreement, which shall enter into force on the date of entry into force of the TPP Agreement with respect to Japan and the United States.”

I have the honor to confirm that my Government shares this understanding and to agree that your letter and this letter in reply shall constitute an agreement between our two Governments, subject to dispute settlement under Chapter 28 (Dispute Settlement) of the Trans-Pacific Partnership Agreement (TPP Agreement), which shall enter into force on the date of entry into force of the TPP Agreement with respect to the United States and Japan.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael B. G. Froman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ambassador Michael B. G. Froman