

Auckland, February 4, 2016

Minister,

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 Australia regarding the operation of the Simultaneous Buy-Sell (SBS) mechanism for Japan's country-specific tariff-rate quota under the TPP Agreement for rice from Australia (AU-CSQ), which is provided for in CSQ-JP2 of Appendix A (Tariff Rate Quotas of Japan) 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. The SBS mechanism for the AU-CSQ shall be administered by the Ministry of Agriculture, Forestry and Fisheries of Japan (MAFF), or its successor, 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 Australia, including those under the TPP Agreement and this letter and your letter of confirmation in reply.

1. In the absence of an exceptional circumstance, MAFF, or its successor, shall conduct six tenders each Japanese Fiscal Year (JFY) for importation of rice under the AU-CSQ.

2. MAFF, or its successor, shall, by April 10 of each JFY, publish on an official government website and notify to Australia the annual schedule for SBS tenders for importation of rice under the AU-CSQ.

3. In the absence of an exceptional circumstance, MAFF, or its successor, shall conduct the first tender of each JFY for importation of rice under the AU-CSQ during the second month of the JFY, and shall conduct a subsequent tender once every two months thereafter throughout the JFY.

4. Japan shall immediately notify Australia of any exceptional circumstance that Japan believes warrants a deviation from the schedule set forth in paragraphs 1 and 3.

The Honorable Andrew Robb  
Minister for Trade and Investment  
Australia

II. 1. Any entity which is registered in Japan and has sufficient capacity to import rice shall be eligible to sell rice through any SBS tender.

2. Any of the following, which have sufficient capacity to handle rice, shall be eligible to purchase rice through any SBS tender:

(a) a rice distributor (including any wholesaler or retailer);

(b) a processor or manufacturer of any product containing rice; or

(c) a participant in the food service industry.

III. Japan shall set a maximum purchase price only for each of the following three types of rice: short-grain rice, medium-grain rice and long-grain rice.<sup>1</sup> Japan shall set each maximum purchase price at a level that reflects conditions in the international market for that type of rice, including the free on board (FOB) price at ports in Australia, freight costs, and exchange rates. At the time that it notifies its annual schedule of SBS tenders, MAFF, or its successor, shall publish on the official government website referred to in paragraph I.2 all data elements and figures it used for the assessment of the international market price.

IV. During each JFY, Japan shall not change the level of minimum import mark-up in SBS tenders. In improving the SBS tender system, Japan shall give due consideration to the level of minimum import mark-up in order to facilitate its smooth operation.

V. Japan shall not set the percentage of broken rice in any tender under the AU-CSQ at greater than seven per cent of the total quantity of the tender.

VI. Japan shall not solicit or accept bids for the sale to MAFF, or its successor, of rice under the AU-CSQ in quantities of less than 17 metric tons.

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1 For greater certainty, Japan shall not set a maximum purchase price for any variety or subtype of rice, except that it may set a separate maximum purchase price for the brown and milled varieties of short-grain rice, medium-grain rice and long-grain rice.

VII. MAFF, or its successor, shall publish on the official government website referred to in paragraph I.2 the following information for each of two subtypes (brown and milled) of each type of rice (short-grain rice, medium-grain rice and long-grain rice) immediately after the results of each tender become final:

- (a) number of bids submitted and the total quantity represented by those bids;
- (b) number of successful bids and the total quantity represented by those bids;
- (c) weighted average purchase price paid by MAFF, or its successor, pursuant to bids that were successful;
- (d) highest and lowest purchase prices paid by MAFF, or its successor, pursuant to bids that were successful; and
- (e) weighted average purchase price paid to MAFF, or its successor, pursuant to bids that were successful.

VIII. If successful bids do not fill the scheduled quantity in any tender, MAFF, or its successor, shall conduct another round of that tender on the following day.

IX. Japan shall allow the rice sold to MAFF, or its successor, through the tender to:

- (a) depart from the port of exportation at any time within eleven months after the date of the tender award; and
- (b) be delivered to users at any time within twelve months after the date of the tender award.

X. 1. Japan and Australia shall discuss the operation of the AU-CSQ following the first three tenders of each JFY. During any such discussion, Japan and Australia shall examine the fill rates of the Rice 1<sup>2</sup> and Rice 2<sup>3</sup> components of the AU-CSQ and the proportion of each tender that Japan allots to each such component, and MAFF, or its successor, shall make adjustments, as mutually agreed by Japan and Australia, to the proportion of future tenders allotted to each such component.

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2 HS Codes: 110290.310, 110319.510, 110320.350, 110419.250, 110429.250, 190120.122, 190120.162, 190190.142, 190190.587, 190410.211, 190420.211, 190490.120 and 210690.517.

3 HS Codes: 100610.010, 100620.010, 100630.010 and 100640.010.

2. If the average fill rate falls below 90 per cent for the first three tenders of any JFY:

(a) MAFF, or its successor, shall make available all of the remaining unallocated volume of the AU-CSQ in the fourth tender and in all subsequent tenders in the JFY, until the AU-CSQ volume is fully allocated.

(b) MAFF, or its successor, shall undertake temporary adjustments, as agreed by Japan and Australia, and which shall include adjustments to some or all of the following:

- (i) the number and frequency of tenders;
- (ii) the ratio of broken rice to unbroken rice in the future tenders;
- (iii) maximum purchase price; and
- (iv) the time period in which rice sold under tenders may be shipped.

3. Japan and Australia shall consult on an annual basis to review the operation of MAFF's or its successor's SBS tendering process as applied to the AU-CSQ. During this consultation, if any temporary adjustment listed in paragraph X.2(b) is in place, Japan and Australia shall consider whether to continue it into the next JFY.

4. If the AU-CSQ volume is not fully utilized in two out of any three consecutive JFYs, MAFF, or its successor, shall make such modifications to the AU-CSQ as are necessary to achieve full utilization of the AU-CSQ, including:

- (a) immediate, temporary reduction, for the entirety of the following JFY, of the minimum import mark-up by 15 per cent from its established base level; and
- (b) such other steps as Japan and Australia agree.

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 Australia.

Shuichi Takatori  
State Minister of Cabinet Office of Japan



THE HON ANDREW ROBB AO MP

MINISTER FOR TRADE AND INVESTMENT  
Auckland, 4 February 2016

Mr. Shuichi Takatori  
State Minister of Cabinet Office of Japan

Dear State Minister Takatori,

I have the honour to acknowledge the receipt of your letter of 4 February 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 Australia regarding the operation of the Simultaneous Buy-Sell (SBS) mechanism for Japan's country-specific tariff-rate quota under the TPP Agreement for rice from Australia (AU-CSQ), which is provided for in CSQ-JP2 of Appendix A (Tariff Rate Quotas of Japan) 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. The SBS mechanism for the AU-CSQ shall be administered by the Ministry of Agriculture, Forestry and Fisheries of Japan (MAFF), or its successor, 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 Australia, including those under the TPP Agreement and this letter and your letter of confirmation in reply.

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4. Japan shall immediately notify Australia of any exceptional circumstance that Japan believes warrants a

deviation from the schedule set forth in paragraphs 1 and 3.

II. 1. Any entity which is registered in Japan and has sufficient capacity to import rice shall be eligible to sell rice through any SBS tender.

2. Any of the following, which have sufficient capacity to handle rice, shall be eligible to purchase rice through any SBS tender:

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IV. During each JFY, Japan shall not change the level of minimum import mark-up in SBS tenders. In improving the SBS tender system, Japan shall give due consideration to the level of minimum import mark-up in order to facilitate its smooth operation.

V. Japan shall not set the percentage of broken rice in any tender under the AU-CSQ at greater than seven per cent of the total quantity of the tender.

VI. Japan shall not solicit or accept bids for the sale to MAFF, or its successor, of rice under the AU-CSQ in quantities of less than 17 metric tons.

VII. MAFF, or its successor, shall publish on the official government website referred to in paragraph I.2 the following information for each of two subtypes (brown and milled) of each type of rice (short-grain rice, medium-grain rice and long-grain rice) immediately after the results of each tender become final:

(a) number of bids submitted and the total quantity

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represented by those bids;

(b) number of successful bids and the total quantity represented by those bids;

(c) weighted average purchase price paid by MAFF, or its successor, pursuant to bids that were successful;

(d) highest and lowest purchase prices paid by MAFF, or its successor, pursuant to bids that were successful; and

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2. If the average fill rate falls below 90 per cent for the first three tenders of any JFY:

(a) MAFF, or its successor, shall make available all of the remaining unallocated volume of the AU-CSQ in the fourth tender and in all subsequent tenders in the JFY, until the AU-CSQ volume is fully allocated.

(b) MAFF, or its successor, shall undertake temporary adjustments, as agreed by Japan and Australia, and which shall include adjustments to some or all of the following:

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- (ii) the ratio of broken rice to unbroken rice in the future tenders;
- (iii) maximum purchase price; and
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3. Japan and Australia shall consult on an annual basis to review the operation of MAFF's or its successor's SBS tendering process as applied to the AU-CSQ. During this consultation, if any temporary adjustment listed in paragraph X.2(b) is in place, Japan and Australia shall consider whether to continue it into the next JFY.

4. If the AU-CSQ volume is not fully utilized in two out of any three consecutive JFYs, MAFF, or its successor, shall make such modifications to the AU-CSQ as are necessary to achieve full utilization of the AU-CSQ, including:

- (a) immediate, temporary reduction, for the entirety of the following JFY, of the minimum import mark-up by 15 per cent from its established base level; and
- (b) such other steps as Japan and Australia agree.

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 Australia.

I have the further honour 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 Australia and Japan.

Yours sincerely

Andrew Robb  
Minister for Trade and Investment  
Australia