



OFFICE *of the* UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT

United States-Japan Trade Agreement (USJTA) Negotiations

Summary of Specific Negotiating Objectives

December 2018

Introduction

On October 16, 2018, the Trump administration notified Congress that the President intended to negotiate the United States-Japan Trade Agreement (USJTA), in accordance with section 105(a)(1)(A) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (the Trade Priorities and Accountability Act). Our specific objectives for this negotiation will comply with the specific objectives set forth by Congress in section 102 of the Trade Priorities and Accountability Act.

The United States and Japan are the world's first and third largest economies, respectively, representing about 30 percent of global Gross Domestic Product. Japan is an important, but still too often underperforming, market for U.S. exporters of goods. Japan was the fourth largest goods export market for the United States in 2017, with U.S. exports totaling \$67.6 billion. Likewise, Japan was the fourth-largest export market for U.S. agriculture products in 2017, with exports valued at \$12 billion. Despite these significant trade volumes, U.S. exporters in key sectors such as automobiles, agriculture, and services have been challenged by multiple tariff and non-tariff barriers for decades, leading to chronic U.S. trade imbalances with Japan. In fact, the trade deficit in goods with Japan was \$68.9 billion in 2017, virtually unchanged from the previous year. As indicated in the joint statement issued by President Trump and Prime Minister Abe on September 26, 2018, the United States and Japan would like to further expand trade and investment between them, and recognize the importance of a strong, stable, and mutually beneficial trade and economic relationship.

Our aim in negotiations with Japan is to address both tariff and non-tariff barriers and to achieve fairer, more balanced trade in a manner consistent with the objectives that Congress has set out in section 102 of the Trade Priorities and Accountability Act. We are committed to working closely with Congress, including on matters of scope, and to following the requirements of the Trade Priorities and Accountability Act and the guidelines issued pursuant to section 104(a)(3) of that Act. Further, we recognize that effective implementation and enforcement of the commitments made by our trading partners under our trade agreements are vital to the success of those agreements, and we will seek provisions that ensure effective implementation and enforcement.

As a part of the process in formulating these objectives, on October 26, 2018, we solicited public comments by Federal Register notice regarding objectives for the USJTA and received over 150 submissions. Likewise, we held a public hearing on December 10, 2018, to hear the testimony of over 40 witnesses regarding negotiation objectives.

We are committed to concluding these negotiations with timely and substantive results for U.S. consumers, businesses, farmers, ranchers, and workers, consistent with U.S. priorities and the negotiating objectives established by Congress in statute. We may seek to pursue negotiations with Japan in stages, as appropriate, but we will only do so based on consultations with Congress. As part of this process, the Administration will update these negotiating objectives in the future, consistent with Section 105(a)(1)(D) of the Trade Priorities and Accountability Act. We look forward to continuing to work with Congress as negotiations with Japan begin, and we are committed to working with Congress closely and transparently throughout the process.



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Summary of Specific Negotiating Objectives for the Initiation of United States-Japan Trade Agreement (USJTA) Negotiations

Trade in Goods:

- Improve the U.S. trade balance and reduce the trade deficit with Japan.
- Increase transparency in import and export licensing procedures.
- Discipline import and export monopolies to prevent trade distortions.

Industrial Goods

- Secure comprehensive duty-free market access for U.S. industrial goods and strengthen disciplines to address non-tariff barriers that constrain U.S. exports.
- Expand market access for remanufactured goods exports by ensuring that they are not classified as used goods that are restricted or banned.
- Secure duty-free access for U.S. textile and apparel products and seek to improve competitive opportunities for exports of U.S. textile and apparel products while taking into account U.S. import sensitivities.
- Secure commitments with respect to greater regulatory compatibility to facilitate U.S. exports in key goods sectors, including pharmaceuticals, medical devices, cosmetics, information and communication technology equipment, motor vehicles, and chemicals, and reduce burdens associated with unnecessary differences in regulation, including through regulatory cooperation where appropriate.
- Secure additional provisions as necessary to obtain fair and more equitable trade in the motor vehicle sector, including provisions designed to address non-tariff barriers in Japan as well as to increase production and jobs in the U.S.

Agricultural Goods

- Secure comprehensive market access for U.S. agricultural goods in Japan by reducing or eliminating tariffs.
- Provide reasonable adjustment periods for U.S. import sensitive agricultural products, engaging in close consultation with Congress on such products before initiating tariff reduction negotiations.
- Eliminate practices that unfairly decrease U.S. market access opportunities or distort agricultural markets to the detriment of the United States, including:



- Non-tariff barriers that discriminate against U.S. agricultural goods;
 - Unfair or trade distorting activities of state trading enterprises or state-owned enterprises (SOEs) and other administrative mechanisms, with emphasis on requiring transparency in the operation of state trading enterprises and other such mechanisms in order to end cross subsidization, price discrimination and price undercutting; and
 - Restrictive rules in the administration of tariff rate quotas.
- Promote greater regulatory compatibility to reduce burdens associated with unnecessary differences in regulations and standards, including through regulatory cooperation when appropriate.
 - Establish specific commitments for trade in products developed through agricultural biotechnologies, including on transparency, and management of low-level presence issues, and a mechanism for exchange of information and enhanced cooperation on agricultural biotechnologies.

Sanitary and Phytosanitary Measures (SPS):

- Provide for enforceable and robust SPS commitments that build upon WTO rights and obligations, including with respect to science-based measures, good regulatory practice, import checks, equivalence, regionalization, certification and risk analysis, making clear that each country can set for itself the level of protection it believes to be appropriate to protect food safety and plant and animal health in a manner consistent with its international obligations.
- Establish a mechanism to remove expeditiously unwarranted barriers that block the export of U.S. food and agricultural products.
- Establish new and enforceable rules to ensure that science-based SPS measures are developed and implemented in a transparent, predictable, and non-discriminatory manner.
- Improve communication, consultation, and cooperation between governments to share information and work together on SPS issues in a transparent manner, including on new technologies.
- Provide for a mechanism for improved dialogue and cooperation to address SPS issues and facilitate trade where appropriate and possible.

Customs, Trade Facilitation, and Rules of Origin:

Customs and Trade Facilitation:

- Build on and set high standards for implementation of WTO agreements involving trade



facilitation and customs valuation.

- Increase transparency by ensuring that all customs laws, regulations, and procedures are published on the Internet as well as designating points of contact for questions from traders.
- Ensure that, to the greatest extent possible, shipments are released immediately after determining compliance with applicable laws and regulations and provide for new disciplines on timing of release, automation, and use of guarantees.
- Provide for streamlined and expedited customs treatment for express delivery shipments, including for shipments above any de minimis threshold. Provide for simplified customs procedures for low-value goods and a more reciprocal de minimis shipment value.
- Ensure that Japan administers customs penalties in an impartial and transparent manner and avoids conflicts of interest in the administration of penalties.
- Provide for automation of import, export, and transit processes, including through supply chain integration; reduced import, export, and transit forms, documents, and formalities; enhanced harmonization of customs data requirements; and advance rulings regarding the treatment that will be provided to a good at the time of importation.
- Provide for both administrative and judicial appeal of customs decisions and procedures for ensuring uniformity in customs treatment of goods.
- Provide for electronic payment of duties, taxes, fees, and charges imposed on or in connection with importation or exportation.
- Provide for the use of risk management systems for customs control and post-clearance audit procedures to ensure compliance with customs and related laws.
- Provide for disciplines on the use of customs brokers.
- Provide for disciplines on the use of reusable containers.
- Establish a committee for the Parties to share information and cooperate on trade priorities with a view to resolving inconsistent treatment of commercial goods.
- Promote cooperation with Japan to prevent duty evasion and combat customs offenses.

Rules of Origin:

- Develop rules of origin that ensure the Agreement's benefits go to products genuinely made in the United States and Japan.
- Ensure that the rules of origin incentivize production in the Parties, specifically in the United States.



- Establish origin procedures for the certification and verification of rules of origin that promote strong enforcement, including with respect to textiles.
- Promote origin procedures that ensure that goods that meet the rules of origin receive the Agreement's benefits.

Technical Barriers to Trade (TBT):

- Require application of decisions and recommendations adopted by the WTO TBT Committee that apply to standards, conformity assessment, transparency, and other areas.
- Include strong provisions on transparency and public consultation that require the publication of drafts of standards, technical regulations and conformity assessment procedures, allow stakeholders in other countries to provide comments on those drafts, and require authorities to address significant issues raised by stakeholders and explain how the final measure achieves the stated objectives.
- Ensure national treatment of conformity assessment bodies without conditions or limitations and encourage the use of international conformity assessment systems, including mutual recognition arrangements.
- Establish a committee that will discuss bilateral and third-party specific trade concerns, coordination of regional and multilateral activities, regulatory cooperation, and implementing Good Regulatory Practices.

Good Regulatory Practices:

- Obtain commitments that can facilitate market access and promote greater compatibility between U.S. and Japanese regulations, including by:
 - Ensuring transparency and accountability in the development, implementation, and review of regulations, including by publication of proposed regulations;
 - Providing meaningful opportunities for public comment in the development of regulations;
 - Promoting the use of impact assessments and other methods of ensuring regulations are evidence-based and current, as well as avoiding unnecessary redundancies; and
 - Applying other good regulatory practices such as internal coordination mechanisms, and securing commitments to ensure transparency as well as meaningful opportunities to provide comments to government-appointed advisory committees.



Transparency, Publication, and Administration:

- Secure commitments to:
 - Promptly publish laws, regulations, administrative rulings of general application, and other procedures that affect trade and investment;
 - Provide meaningful opportunities for public comment on measures before they are adopted and finalized; and
 - Establish and maintain mechanisms for review and, if warranted, correction of final administrative actions.

Trade in Services, Including Telecommunications and Financial Services:

Trade in Services:

- Secure commitments that provide fair and open conditions for services trade, including through:
 - Rules that apply to all services sectors, including rules that prohibit:
 - Discrimination against foreign services suppliers;
 - Restrictions on the number of services suppliers in the market; and
 - Requirements that cross-border services suppliers establish a local presence.
 - Specialized sectoral disciplines, including rules to help level the playing field for U.S. delivery services suppliers in Japan; and
 - Where any exceptions from core disciplines are needed, the negotiation, on a negative list basis, of the narrowest possible exceptions with the least possible impact on U.S. firms.
- Retain flexibility for U.S. non-conforming measures, including U.S. non-conforming measures for maritime services.
- Improve the transparency and predictability of regulatory procedures in Japan.

Telecommunications:

- Promote competitive supply of telecommunications services by facilitating market entry through transparent regulation and an independent regulator.



- Secure commitments to provide reasonable network access for telecommunications suppliers through interconnection and access to physical facilities and scarce resources.
- Establish provisions protecting telecommunications services suppliers' choice of technology.

Financial Services:

- Expand competitive market opportunities for United States financial service suppliers to obtain fairer and more open conditions of financial services trade.
- Improve transparency and predictability in the Parties' respective financial services regulatory procedures, and ensure that financial regulatory measures are administered in an equitable manner.
- Include state-of-the-art commitments to refrain from imposing measures in the financial services sector that restrict cross-border data flows or that require the use or installation of local computing facilities.

Digital Trade in Goods and Services and Cross-Border Data Flows:

- Secure commitments not to impose customs duties on digital products (e.g., software, music, video, e-books).
- Ensure non-discriminatory treatment of digital products transmitted electronically and guarantee that these products will not face government-sanctioned discrimination based on the nationality or territory in which the product is produced.
- Establish state-of-the-art rules to ensure that Japan does not impose measures that restrict cross-border data flows and that Japan does not require the use or installation of local computing facilities.
- Establish rules to prevent governments from mandating the disclosure of computer source code or algorithms.
- Establish rules that limit non-IPR civil liability of online platforms for third-party content, subject to the Parties' rights to adopt non-discriminatory measures for legitimate public policy objectives or that are necessary to protect public morals.

Investment:

- Secure for U.S. investors in Japan important rights consistent with U.S. legal principles and practice, while ensuring that Japanese investors in the United States are not accorded greater substantive rights than domestic investors.
- Establish rules that reduce or eliminate barriers to U.S. investment in all sectors in Japan.



Intellectual Property:

- Promote adequate and effective protection of intellectual property rights, including through the following:
 - Obtain commitments to ratify or accede to international treaties reflecting best practices in intellectual property protection and enforcement.
 - Provide a framework for effective cooperation between Parties on matters related to the adequate and effective protection and enforcement of intellectual property rights.
 - Promote transparency and efficiency in the procedures and systems that establish protection of intellectual property rights, including making more relevant information available online.
 - Seek provisions governing intellectual property rights that reflect a standard of protection similar to that found in U.S. law, including, but not limited to, protections related to trademarks, patents, copyright and related rights (including, as appropriate, exceptions and limitations), undisclosed test or other data, and trade secrets.
 - Provide strong protection and enforcement for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property, including in a manner that facilitates legitimate digital trade, including, but not limited to, technological protection measures.
 - Ensure standards of protection and enforcement that keep pace with technological developments, and in particular ensure that rights holders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works.
 - Prevent or eliminate government involvement in the violation of intellectual property rights, including cyber theft and piracy.
 - Secure fair, equitable, and nondiscriminatory market access opportunities for U.S. persons that rely upon intellectual property protection.
 - Prevent or eliminate discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights.
 - Respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001, and ensure that the Agreement fosters innovation and promotes access to medicines, reflecting a standard similar to that found in U.S. law.
 - Prevent the undermining of market access for U.S. products through the improper use of Japan's system for protecting or recognizing geographical indications, including any failure



to ensure transparency and procedural fairness, or adequately protect generic terms for common use.

- Provide the means for adequate and effective enforcement of intellectual property rights, including by requiring accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms. Such mechanisms include, but are not limited to, strong protections against counterfeit and pirated goods.

Procedural Fairness for Pharmaceuticals and Medical Devices:

- Seek standards to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are nondiscriminatory, and provide full market access for U.S. products, particularly under relevant Japanese measures.

State-Owned and Controlled Enterprises:

- Define State-Owned and Controlled Enterprises (SOEs) on the basis of government ownership or government control through ownership interests, including situations of control through minority shareholding.
- Retain the ability to support SOEs engaged in providing domestic public services.
- Ensure that SOEs accord non-discriminatory treatment with respect to purchase and sale of goods and services.
- Ensure that SOEs act in accordance with commercial considerations with respect to such purchases and sales as well as distribution opportunities within their networks.
- Ensure strong subsidy disciplines applicable to SOEs, beyond the disciplines set out in the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement).
- Require that SOEs not cause harm to another Party through provision of subsidies.
- Require that SOEs not cause harm to the domestic industry of another Party via subsidized SOE investment.
- Ensure impartial regulation of SOEs, designated monopolies, and private companies.
- Provide jurisdiction to courts over the commercial activities of foreign SOEs (i.e., limited sovereign immunity).
- Allow Parties to request information related to the level of government ownership and control of a given enterprise and the extent of government support.
- Develop a fact-finding mechanism to help overcome the evidentiary problems associated with litigation involving SOEs.



Competition Policy:

- Maintain and implement rules that prohibit anticompetitive business conduct, protect consumers from fraudulent and deceptive commercial acts and practices, and ensure that those rules are transparent.
- Establish or affirm basic rules for procedural fairness on competition law enforcement, including by: allowing representation by counsel; recognizing privileged communications; providing for the protection of confidential and privileged information and communications; ensuring access to information necessary to prepare an adequate defense, providing an opportunity to present rebuttal evidence and cross-examine witnesses; and ensuring the resolution of competition law cases before an impartial administrative or judicial authority.
- Ensure that, in calculating a fine for a violation of a national competition law, the Party considers revenue or profit relating to the Party's territory or commerce.
- Limit remedies relating to conduct outside the Party's territory to situations where there is an appropriate nexus to the Party's territory.
- Promote cooperation among the relevant authorities on competition and consumer protection enforcement-related matters, including investigative assistance, notification, consultation, and exchange of information.

Labor:

- Require the Parties to adopt and maintain in their laws and practices the internationally recognized core labor standards as recognized in the ILO Declaration, including:
 - Freedom of association and the effective recognition of the right to collective bargaining;
 - Elimination of all forms of forced or compulsory labor;
 - Effective abolition of child labor and a prohibition on the worst forms of child labor; and
 - Elimination of discrimination in respect of employment and occupation.
- Require the Parties to have laws governing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.
- Establish rules that will ensure that the Parties do not waive or derogate from their labor laws implementing internationally recognized core labor standards in a manner affecting trade or investment between the Parties.
- Establish rules that will ensure that the Parties do not fail to effectively enforce their labor laws implementing internationally recognized core labor standards and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety



and health laws through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties.

- Require that the Parties take initiatives to prohibit the importation of goods produced by forced labor, regardless of the source country.
- Require the Parties to ensure that foreign workers are protected under their labor laws.
- Provide access to fair, equitable, and transparent administrative and judicial proceedings.
- Ensure that these labor obligations are subject to the same dispute settlement mechanism that applies to other enforceable obligations of the Agreement.
- Establish a means for stakeholder participation, including through public advisory committees, as well as a process for members of the public to raise concerns directly with their respective governments if they believe a Party is not meeting its labor commitments.
- Establish or maintain a senior-level Labor Committee, which will meet regularly to oversee implementation of labor commitments, and include a mechanism for cooperation and coordination on labor issues, including opportunities for stakeholder input in identifying areas of cooperation.

Environment:

- Establish strong and enforceable environment obligations that are subject to the same dispute settlement mechanism that applies to other enforceable obligations of the Agreement.
- Establish rules that will ensure that the Parties do not waive or derogate from the protections afforded in their environmental laws for the purpose of encouraging trade or investment.
- Establish rules that will ensure that the Parties do not fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties.
- Require the United States and Japan to adopt and maintain measures implementing their obligations under select Multilateral Environmental Agreements (MEAs) to which they are full parties, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora.
- Establish a means for stakeholder participation, including commitments for public advisory committees, and a process for the public to raise concerns directly with its government if they believe it is not meeting its environment commitments.
- Require the Parties to ensure access to fair, equitable, and transparent administrative and judicial proceedings for enforcing their environmental laws, and provide appropriate



sanctions or remedies for violations of their environmental laws.

- Provide for a framework for conducting, reviewing, and evaluating cooperative activities that support implementation of the environment commitments and for public participation in these activities.
- Establish or maintain a senior-level Environment Committee, which will meet regularly to oversee implementation of environment commitments, with opportunities for public participation in the process.
- Combat illegal, unreported, and unregulated (IUU) fishing, including by implementing port state measures and supporting increased monitoring and surveillance.
- Establish rules to prohibit harmful fisheries subsidies, such as those that contribute to overfishing and IUU fishing, and pursue transparency in fisheries subsidies programs.
- Promote sustainable fisheries management and long-term conservation of marine species, including sharks, sea turtles, seabirds, and whales.
- Protect and conserve flora and fauna and ecosystems, including through action by countries to combat wildlife and timber trafficking.
- Include provisions to mitigate the discharge of solid waste into the marine environment.

Anti-corruption:

- Secure provisions committing each Party to criminalize government corruption, to take steps to discourage corruption, and to provide adequate penalties and enforcement tools in the event of prosecution of persons suspected of engaging in corrupt activities. In particular:
 - Require the adoption or maintenance of requirements for companies to maintain accurate books and records, which facilitate the detection and tracing of corrupt payments;
 - Require the establishment of codes of conduct and the development of other tools to promote high ethical standards among public officials;
 - Require parties to disallow the deduction of corrupt payments for tax purposes; and
 - Encourage Parties to promote the active participation by the public in efforts to combat corruption.

Trade Remedies:

- Preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws.



- Facilitate the ability of the United States to impose measures based on market distortions due to ongoing subsidization or dumping.
- Promote cooperation among the trade remedies administrators of the Parties, particularly with regards to the sharing of information that would improve the ability of administrators to effectively monitor and address trade remedies violations.
- Strengthen existing procedures and create new procedures to address AD/CVD duty evasion, including the ability to conduct AD/CVD duty evasion verification visits.
- Establish transparency and due process obligations reflected in U.S. AD/CVD laws, regulations, and practice.

Government Procurement:

- Increase opportunities for U.S. firms to sell U.S. products and services into Japan.
- Ensure reciprocity in market access opportunities for U.S. goods, services, and suppliers in Japan.
- Establish obligations and procedures to combat corruption in procurement.
- Establish fair, transparent, predictable, and non-discriminatory rules to govern government procurement in Japan, including rules mirroring existing U.S. government procurement practices such as:
 - Publishing information on government procurement opportunities in a timely manner;
 - Ensuring sufficient time for suppliers to obtain tender documentation and submit bids;
 - Ensuring that procurement will be handled under fair procedures;
 - Ensuring that contracts will be awarded based solely on the evaluation criteria specified in the notices and tender documentation; and
 - Providing impartial administrative or judicial review authority to review challenges or complaints.
- Exclude sub-federal coverage (state and local governments) from the commitments being negotiated. Keep in place domestic preferential purchasing programs such as:
 - Preference programs for small businesses, women and minority owned businesses (which includes Native Americans), service-disabled veterans, and distressed areas;
 - “Buy America” requirements on Federal assistance to state and local projects, transportation



services, food assistance, and farm support; and

- Key Department of Defense procurement.
- Maintain broad exceptions for government procurement regarding:
 - National security;
 - Measures necessary to protect public morals, order, or safety;
 - Protecting human, animal, or plant life or health; and
 - Protecting intellectual property.
- Maintain ability to provide for labor, environmental, and other criteria to be included in contracting requirements.
- Establish requirements that promote transparency in procurement statistics.

Small and Medium-Sized Enterprises:

- Secure commitment by the Parties to provide information resources to help small businesses navigate requirements for exporting to each other's markets.
- Cooperate on SME issues of mutual interest.
- Establish an SME Committee of government representatives to ensure that the needs of SMEs are considered as the Agreement is implemented in order for SMEs to benefit from new commercial opportunities.
- Establish a bilateral SME dialogue which may include the private sector, non- governmental organizations, and other SME stakeholders to provide views and information to the SME Committee.

Dispute Settlement:

- Encourage the early identification and settlement of disputes through consultation and other mechanisms.
- Establish a dispute settlement mechanism that is effective and timely, and in which panel determinations are based on the provisions of the Agreement and the submissions of the parties and are provided in a reasoned manner.
- Establish a dispute settlement process that is transparent by:
 - Requiring that Parties' submissions be made publicly available;



- Requiring that hearings be open to the public;
 - Requiring that final determinations by a panel be made publicly available; and
 - Ensuring that non-governmental entities have the right to request making written submissions to a panel.
- Have provisions that encourage compliance with the obligations of the Agreement.
 - Provide mechanisms for ensuring that the parties retain control of disputes and can address situations when a panel has clearly erred in its assessment of the facts or the obligations that apply.

General Provisions:

- Include general exceptions that allow for the protection of legitimate U.S. domestic objectives, including the protection of health or safety and essential security, among others.
- Provide a mechanism for ensuring that the Parties assess the benefits of the Agreement on a periodic basis.
- Provide mechanisms for terminating the Agreement under appropriate circumstances.
- Provide a mechanism to ensure transparency and take appropriate action if Japan negotiates a free trade agreement with a non-market country.

Currency:

- Ensure that Japan avoids manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage.

