

Japan Inbound Tax & Legal Newsletter

US-Japan trade agreement enters into force

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In Brief

The US-Japan Trade Agreement (agreement) and the US-Japan Digital Trade Agreement entered into force on 1 January 2020. This article will discuss the trade agreement. Under the agreement, Japan is allowed to import goods from the US at lower than standard tariff rates (i.e., preferential tariff rates) if the goods meet the applicable “rules of origin” required by the agreement, which is similar to the requirement in other trade agreements such as Free Trade Agreements (FTAs) and Economic Partnership Agreements (EPA) that Japan has concluded with other countries in the past. Rules of origin requirements determine the “nationality” of a product. Although the preferential tariff rates may vary depending on the type of goods traded, tariffs on Japanese and US products are eliminated or gradually reduced annually as from 1 January 2020.

The number of items subject to tariff reduction under this agreement is limited and there is a significant difference in the list of items covered by this agreement between Japan and the US. For goods imported into Japan, tariffs on certain US agricultural products and processed food such as beef, cheese, and wine are reduced to the same tariff rate as the one used by the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) countries selling into the Japanese market. In addition, Japan may apply safeguard measures and preferential US-specific quotas to certain goods in cases of surges in importation while the US may reduce tariffs on Japanese industrial products such as machine tools and railway parts but not on automobiles or automobile parts.

Examples of tariff reduction under the agreement

1. US products imported into Japan

Description	HS code	Base rate	Preferential tariff rate
Beef	0201	38.5%	26.6% for 2020 followed by subsequent annual reductions resulting in a 9% rate as from 1 April 2033
Pork (carcasses and half carcasses)	020311.020-032	JPY 361/kilogram (kg) or rate determined under gate price system (applicable tariff rate to be determined based on customs value)	<ul style="list-style-type: none"> For 2020, the lower of (i) the difference between (a) the customs value per kg and (b) JPY 393 per kg multiplied by 101.9% or (ii) JPY 93.75; Subsequent annual reductions in the following years; As from 1 April 2027, the lower of (i) the difference between (a) the customs value per kg and (b) JPY 393 per kg or (ii) JPY 37.5
	020311.040	4.3%	1.9% for 2020 followed by subsequent annual reductions resulting in a 0% rate as from 1 April 2027
Fresh cheese	040610.020	22.4%	19.6% for 2020 followed by subsequent annual reductions

			resulting in a 0% rate as from 1 April 2033
Oranges	080510.000	16% or 32%	One-third of the base rate, further reduced to 0% as from 1 April 2023 (some exceptions apply)
Ground nuts(peeled)	120242.091	10%	0% as from 1 January 2020
Bottled wine	220421.020	15% or JPY 125/liter (l), whichever is lower, subject to a minimum tariff of JPY 67/l	8.5% <i>ad valorem</i> or JPY 125 per liter, whichever is lower, subject to a minimum duty of JPY 35.73 per liter for 2020 followed by subsequent annual reduction resulting in 0% rate as from 1 April 2025

2. Japanese products imported into the US

Description	HS code	Base rate	Preferential tariff rate
Parts for air conditioning machines	84159080	1.4%	0% as from 1 January 2020
Machine tools operated by laser (including 3D printers)	84561110	3.5%	0% as from 1 January 2020
Machining centers	84571000	4.2%	1.2% in 2020 and 0% as from 1 January 2021
Primary cells and primary batteries	85068000	2.7%	0% as from 1 January 2020
Sunglasses	90041000	2%	0% as from 1 January 2020
Grand pianos	92012000	4.7%	1.7% in 2020 and 0% as from 1 January 2021

Rules of origin requirements to apply preferential tariff rates

Preferential tariff rates only apply to goods that meet the rules of origin required by the agreement.

There may be cases where certain processed foods imported into Japan contain ingredients that do not meet this requirement. However, such foods can be treated as being of US origin if the processing of the foods satisfies the substantial transformation requirements. Therefore, in determining whether imported goods are of US origin, it also is necessary to consider what processing they may have undergone and to confirm whether they contain non-originating materials.

In addition, under the agreement, an importer may receive preferential tariff treatment by submitting a certificate of origin along with relevant documentation to support the certification. If an importer is located in Japan and intends to apply the preferential tariff rate to certain agricultural products listed in the agreement, the importer must prepare this documentation prior to importation.



Deloitte's View

Pursuant to the US-Japan trade agreement, Japan is eliminating or lowering tariffs for certain US agricultural products, making the Japanese market for these products more accessible to US producers.

To receive preferential tariff treatment, importers are required to prepare and provide to the customs office a certificate of origin and supporting documentation. However, it is important to note that the customs authorities may deny preferential tariff treatment for a product if the information provided is insufficient or inadequate to confirm the origin of the product. Thus, from a customs compliance perspective, it is critical for importers to obtain sufficient information about the goods prior to importation to attest to the origin of the goods.

The number of items subject to reduced tariff rates under the agreement is limited and even similar items may not receive equal tariff treatment. Therefore, it may be difficult to determine whether the goods to be imported or exported are listed in the agreement under particular HS tariff codes. Additionally, it may be difficult to determine whether processed goods meet the rules of origin required by the agreement. Obtaining an advance ruling from the customs authorities may be useful to reduce the risk of a tariff reduction being denied.

The agreement also provides that the customs authorities may request further information to confirm that the origin declaration is appropriate. Because a customs audit may be conducted even after importation, taxpayers should retain documentation supporting the origin of goods and keep all other relevant information on imported goods that have received preferential tariff treatment under the agreement.

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