

# DAIRY PRODUCTS

## PRELIMINARY REMARKS

- The aim of these Factsheets and Guidelines (hereafter 'Report') is to explain to EU dairy exporters the market access opportunities offered by the Agreement for an Economic Partnership (EPA) as well as, in a brief overview, the relevant Rules of Origin, Japan's procedure for the application of a TRQ share and import procedures in Japan. More information on these issues and on specific market entry requirements, including Customs procedures and SPS measures are covered in the relevant Factsheet and Guidelines, or can be found in the 'Food and Beverage Handbook: Japan' <sup>[1]</sup>.
- As regards product specification, only the Harmonised System (HS) code system at six-digit level, or the Japanese nomenclature at nine-digit level have been used. For detailed description of the Japanese nomenclature, reference is made to the Japanese Schedule in the Agreement.
- In the Japanese Schedule, a fiscal year means the period between 1 April of one year and 31 March of the next year. As the Agreement enters into force on 1 February 2019, the first year will be the period between 1 February 2019 and 31 March 2019. The first-year quantities of the tariff quotas have therefore been calculated on a 'pro rata' basis.
- All quantities are expressed in metric tonnes (t), unless stated otherwise.
- The complete text of the EPA, and annexes, incorporating the Schedule of Japan, can be found on the following website of the European Commission: <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1684>. Japan's tariff Schedule is in Annex 2-A-4; "Notes for the Schedule of Japan" can be found in Annex 2-A-3. These Notes explain inter alia the various types of concessions, including details on TRQs, safeguard measures, etc.



# DAIRY PRODUCTS

## 1. IN A NUTSHELL



For **hard cheeses**, currently applied tariffs (up to 29.8%) will gradually be phased out to become zero for unlimited quantities as from 1 April 2033. A 20.000 t tariff quota (TRQ), with growth factor, will allow for duty free access as from 1 April 2033 for **fresh cheeses**, such as mozzarella, **processed cheeses**, **blue veined cheeses**, and **soft cheeses**, such as Feta and camembert.

Market access will also be improved for **other dairy products**.

**Skimmed milk powder** for feeding will have tariffs reduced by 95%, and tariffs on **whey products** (with specific protein content) will be reduced by 70%. A common TRQ for **butter** and **SMP** of 15.000 t (in milk equivalent) will offer a gradual tariff reduction over a period of 11 years. This TRQ will be managed by Ministry of Agriculture, Fishery and Forestry (MAFF) and not by ALIC (Agriculture and Livestock Industries Corporation) as it is the case for the current WTO TRQs in relation to dairy products.

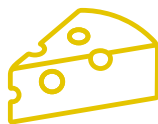
## 2. DIFFERENT TYPES OF PREFERENCE

TYPE	CATEGORY IN JAPAN'S SCHEDULE	DESCRIPTION
Immediate liberalisation	A	The base rate <sup>[2]</sup> currently applied by Japan is eliminated at the entry into force of the Agreement. Tariff lines <b>not</b> listed in the Schedule of Japan have duty free access from 1 February 2019 [entry into force].
Duty elimination spread over a period	B	Gradual elimination of the base rate over a period of time, whether or not in equal annual instalments (linear or non-linear). The zero duty will be applied in subsequent years.
Duty reduction spread over a period	R	Gradual reduction of the base rate to a certain level, whether or not in equal annual instalments (linear or non-linear). The final – reduced – level will be applied in subsequent years.
Tariff Rate Quotas (TRQs)	TRQ	TRQs allow for one of the above-mentioned preferences within the limits of an annual import quantity (being the quota level) of the relevant goods. Once in a given fiscal year this quantity is exceeded, the base duty rate applies until the end of the fiscal year <sup>[3]</sup> . The TRQ is re-opened at the beginning of the following fiscal year. The quota levels can remain unchanged over the years, or can be increased gradually over a period of time. All the EPA dairy TRQs are managed on the basis of a non-discriminatory system whereby import licences are issued after simultaneous examination.

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### 3. CHEESES



• A **full liberalisation** for unlimited quantities is foreseen for an important number of **leading EU cheeses**<sup>[4]</sup> including well known hard cheeses such as **cheddar, gouda, and edam** and Geographical Indication cheeses, such as Parmigiano Reggiano, Gorgonzola, etc. The duties shall be eliminated in 16 equal instalments so that relevant goods shall be duty free as from 1 April 2033<sup>[5]</sup>.

• As an example, the Japanese base rate for **Gouda** is 29.8%. The duty phasing out is illustrated in the below table. A detailed description of this concession can be found in Annex 2-A, Part 3 p12 of the EPA text<sup>[6]</sup>.

DATES	DUTIES %
1/2/2019	27.9
1/4/2019	26.1
1/4/2020	24.2
1/4/2021	22.4
1/4/2022	20.5
1/4/2023	18.6
1/4/2024	16.8
1/4/2025	14.9
1/4/2026	13.0
1/4/2027	11.2
1/4/2028	9.3
1/4/2029	7.5
1/4/2030	5.6
1/4/2031	3.7
1/4/2032	1.9
1/4/2033	0.0

• The EPA provides for a preferential access via a **Tariff Rate Quota (TRQ)** for certain **fresh and processed cheeses**<sup>[7]</sup>, including **mozzarella, blue veined cheese** and **soft cheeses such as camembert, brie** and Geographical Indication

cheeses such as **Feta**. The quota level starts at 20.000t and increases to 31.000t in 16 years. In function of the cheese consumption in Japan, this quota quantity is foreseen to grow in subsequent years, with increases set every three years, without time limitation.

DATE	TRQ QUANTITY (METRIC TONNES)	IN-QUOTA DUTY (%)	IN-QUOTA DUTY (%)	IN-QUOTA DUTY (%)
		040610.020	040610.090 040640.090 040690.090	040620.100 040630.000
1/2/2019	3.333 <sup>[8]</sup>	21.0	27.9	37.5
1/4/2019	20.600	19.6	26.1	35.0
1/4/2020	21.200	18.2	24.2	32.5
1/4/2021	21.800	16.8	22.4	30.0
1/4/2022	22.500	15.4	20.5	27.5
1/4/2023	23.200	14.0	18.6	25.0
1/4/2024	23.900	12.6	16.8	22.5
1/4/2025	24.600	11.2	14.9	20.0
1/4/2026	25.300	9.8	13.0	17.5
1/4/2027	26.100	8.4	11.2	15.0
1/4/2028	26.900	7.0	9.3	12.5
1/4/2029	27.700	5.6	7.5	10.0
1/4/2030	28.500	4.2	5.6	7.5
1/4/2031	29.300	2.8	3.7	5.0
1/4/2032	30.200	1.4	1.9	2.5
1/4/2033	31.000	0.0	0.0	0.0

• The importance of this concession needs to be underlined bearing in mind that base rates for these cheeses vary between 22.4 and 40%.

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### 4. BUTTER AND SMP



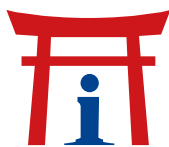
• A TRQ will provide preferential access for **butter, skimmed milk powder (SMP), butter milk powder and condensed milk products<sup>[9]</sup>**. The aggregate quota level at the entry into force

of the Agreement is 12.857 t and will be gradually increased to 15.000 t in a period of 6 years, and will remain at that level for the subsequent years. The base rate for these products consists of an ad valorem duty and a specific duty (yen/kg). The latter duty will be phased out over a period of 11 years. The ad valorem duties (varying between 25 and 35%) will remain unchanged and as such applied in subsequent years. However, for the products 040299.129 and 040299.290 the in-quota rate of customs duty shall be eliminated at the entry into force of the Agreement. An overview is given in below table. More details can be found in Japan's Schedule<sup>[10]</sup>.

DATE	TRQ QUANTITY (whole milk equiv. - Metric Tonnes)	IN-QUOTA RATE FOR BUTTER	IN-QUOTA RATE FOR SMP (not containing added sugar)	IN-QUOTA RATE FOR SMP (containing added sugar)	IN-QUOTA RATE FOR BUTTER MILK POWDER (not containing added sugar)	IN-QUOTA RATE FOR BUTTER MILK POWDER (containing added sugar)	IN-QUOTA RATE FOR MILK POWDER
1/2/2019	2.143 <sup>[11]</sup>	35% +290 yen/kg	25% +130 yen/kg	35% +130 yen/kg	25% +200 yen/kg	35% +200 yen/kg	30% +210 yen/kg
1/4/2019	13.286	35% +261 yen/kg	25% +117 yen/kg	35% +117 yen/kg	25% +180 yen/kg	35% +180 yen/kg	30% +189 yen/kg
1/4/2020	13.714	35% +232 yen/kg	25% +104 yen/kg	35% +104 yen/kg	25% +160 yen/kg	35% +160 yen/kg	30% +168 yen/kg
1/4/2021	14.143	35% +203 yen/kg	25% +91 yen/kg	35% +91 yen/kg	25% +140 yen/kg	35%+ 140 yen/kg	30% +147 yen/kg
1/4/2022	14.571	35% +174 yen/kg	25% +78 yen/kg	35% +78 yen/kg	25% +120 yen/kg	35% +120 yen/kg	30% +126 yen/kg
1/4/2023	15.000	35% +145 yen/kg	25% +65 yen/kg	35% +65 yen/kg	25% +100 yen/kg	35% +100 yen/kg	30% +105 yen/kg
1/4/2024	15.000	35% +116 yen/kg	25% +52 yen/kg	35% +52 yen/kg	25% +80 yen/kg	35% +80 yen/kg	30% +84 yen/kg
1/4/2025	15.000	35% +87 yen/kg	25% +39 yen/kg	35% +39 yen/kg	25% +60 yen/kg	35% +60 yen/kg	30% +63 yen/kg
1/4/2026	15.000	35% +58 yen/kg	25% +26 yen/kg	35% +26 yen/kg	25% +40 yen/kg	35% +40 yen/kg	30% +42 yen/kg
1/4/2027	15.000	35% +29 yen/kg	25% +13 yen/kg	35% +13 yen/kg	25% +20 yen/kg	35% +20 yen/kg	30% +21 yen/kg
1/4/2028	15.000	35%	25%	35%	25%	35%	30%

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# EU-Japan EPA **FACTSHEET**

## Dairy Products



• As the aggregate quota quantity is expressed in a whole milk equivalent, and given the diversity of the products concerned, a conversion factor is used to calculate the weight in whole milk equivalent of each respective product. The conversion table can be found below.

PRODUCT	CONVERSION FACTOR
040210.129	6.48
040210.212	6.48
040210.229	6.48
040221.119	8.9
040221.129	13.43
040221.212	6.84
040221.229	6.84
040229.119	8.9
040229.129	13.43
040229.291	6.84
040299.129	6.69
040299.290	3.65
040390.113	6.48
040390.123	8.57
040390.133	13.43
040510.129	12.34
040510.229	15.05
040520.090	12.34
040590.190	12.34
040590.229	15.05

• For two **milk powder** products<sup>[12]</sup> (for feeding purposes) tariffs will be gradually reduced by 95 % in 6 years.

DATE	PRODUCT 040210.217		PRODUCT 040221.217	
	DUTIES OTHER THAN THE SPECIFIC DUTY (YEN/KG)	SPECIFIC DUTY (YEN/KG)	DUTIES OTHER THAN THE SPECIFIC DUTY (YEN/KG)	SPECIFIC DUTY (YEN/KG)
1/2/2019	77.43	255.87	83.33	274.38
1/4/2019	62.87	207.43	67.65	222.77
1/4/2020	48.30	159.60	51.98	171.15
1/4/2021	33.73	111.47	36.30	119.53
1/4/2022	19.17	63.33	20.62	67.92
1/4/2023	4.60	15.20	4.95	16.30

• **Milk powder for the preparation of chocolate**<sup>[13]</sup> will have duty free access within a TRQ of 5.242 t at the entry into force of the Agreement. This quantity will be gradually increased to 15.940 t as from 1 April 2028 and shall remain at that level for subsequent years.

DATES	“TRQ” QUANTITY
1/2/2019	874 <sup>[14]</sup>
1/4/2019	6.312
1/4/2020	7.382
1/4/2021	8.451
1/4/2022	9.521
1/4/2023	10.591
1/4/2024	11.661
1/4/2025	12.731
1/4/2026	13.800
1/4/2027	14.870
1/4/2028	15.940

• As the aggregate quota quantity is expressed in a whole milk equivalent, and given the diversity of the products concerned, a conversion factor is used to calculate the weight in whole milk equivalent of each respective product.

TARIFF LINE	CONVERSION FACTOR
040221.119	8.9
040221.129	13.43

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### 5. WHEY PRODUCTS



• For a number of **whey products**<sup>[15]</sup>, **immediate liberalisation** is offered at the entry into force of the Agreement, without any quantitative restriction. This concession is labelled as category “**A**” in the Japanese schedule.

• **Other whey products**<sup>[16]</sup> (such as mineral concentrated whey, whey infant formula and whey permeate) will have preferential access within a **TRQ**. The quantity will be 6.200 t at the entry into force of the Agreement, to be increased over a period of 11 years up to a quantity of 9.400 t on 1 April 2028 and to remain at that level for subsequent years. In-quota duty rates will be immediately eliminated at the entry into force of the Agreement for the products 040410.139, 040410.149, 040410.189, 040490.118, 040490.128, and 040490.138. In-quota duty rates for the remaining products (ex040410.129 and ex040410.169) under this concession will be reduced at the entry into force of the Agreement, and phased out over a period of 6 years (see table below). The out-of-quota rate depends on the product<sup>[17]</sup>. Certain technical conditions need to be satisfied. There is for instance a 11% limit for the ash content for the products with tariff lines 0400410.129 and 040410.169. More details can be found in Annex-2-A p. 75 of Japan’s Schedule.



DATE	QUOTA QUANTITY (T)	QUOTA QUANTITY (T)	
		PRODUCTS CONTAINING ADDED SUGAR (ex040410.129 and ex040410.169)	PRODUCTS NOT CONTAINING ADDED SUGAR (ex040410.129 and ex040410.169)
<b>1/2/2019</b>	1.033 <sup>[18]</sup>	31.8	22.7
<b>1/4/2019</b>	6.520	28.6	20.5
<b>1/4/2020</b>	6.840	25.5	18.2
<b>1/4/2021</b>	7.160	22.3	15.9
<b>1/4/2022</b>	7.480	19.1	13.6
<b>1/4/2023</b>	7.800	0.0	0.0
<b>1/4/2024</b>	8.120	0.0	0.0
<b>1/4/2025</b>	8.440	0.0	0.0
<b>1/4/2026</b>	8.760	0.0	0.0
<b>1/4/2027</b>	9.080	0.0	0.0
<b>1/4/2028</b>	9.400	0.0	0.0

• Finally, tariffs for **whey products with specific protein contents**<sup>[19]</sup> will be gradually **liberalised** over a period of 5 years **and be duty free** as from 1 April 2023, or will be **reduced by 70%** in a period of 10 years and remain at that level for subsequent years. For **other whey products**, duties will either be reduced to zero<sup>[20]</sup> (as from 1 April 2028), or reduced in 5 years to a level equal to 50% of the base rate<sup>[21]</sup>.

• Japan can take **safeguard measures** on imports of **whey protein concentrate (WPC)** and **whey powder**.

- For **WPC**, trigger levels gradually increase from 2000t in year 1 to 7438t as from 1 April 2037; as from the next year the trigger level increases indefinitely by 573t/year. Customs duties that will be applied under the safeguard measure decrease from 29.8% plus 120 yen/kg in year 1 to 13.4% plus 75 yen/kg on 1 April 2037. For **whey powder** trigger levels increase from 2.300t in year 1 to 5.190t in April 2032; as from the following year the level increases indefinitely by 458t/year.

- The EPA foresees that if after a given period (for WPC: after 20 years – for whey powder: after 15 years), Japan has not applied a safeguard measure during a number of years (for WPC: 3 years – for whey powder: 2 years), it shall no longer apply any further safeguard measure on the respective imports.

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## 6. OTHER DAIRY PRODUCTS



### 6.1. YOGHURT AND BUTTERMILK

Certain yoghurt and other fermented milk products will be liberalised over a period of 10 years and be duty free from 1 April 2028<sup>[22]</sup>; others will have tariffs reduced by 50% in 6 equal instalments<sup>[23]</sup>, or as from 1 April 2027<sup>[24]</sup>. As mentioned above, concessions on buttermilk products (under HS040390) are included in TRQ-23.

### 6.2. EVAPORATED MILK

A TRQ has been opened for evaporated milk products<sup>[25]</sup>. The in-quota duty rates shall be free. The quota level increases from 780t at the entry into force of the Agreement up to 2.500t as from 1 April 2023 and remains at that level in subsequent years. Technical conditions apply<sup>[26]</sup>.

### 6.3. NON-CONCENTRATED MILK

These products (HS0401) will have various concessions: a gradual duty phasing out over a period of 10 years<sup>[27]</sup>, and will be duty free from 1 April 2028, or a duty reduction for certain products<sup>[28]</sup> by 25% or 50% (in function of their fat content) over a period of 6 years, or a duty reduction of 5% at the entry into force of the Agreement (and remaining at that level in subsequent years) for non-frozen milk products with maximum 6% fat content<sup>[29]</sup>.

### 6.4. WHIPPED CREAM<sup>[30]</sup>

Whipped cream shall be duty free as from 1 April 2023.



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## REFERENCES & SOURCES

- [1] Website: <https://ec.europa.eu/chafea/agri/content/food-and-beverage-market-entry-handbook-japan-0>
- [2] "Base rate" means the starting point of elimination or reduction of customs duties. It is Japan's Most Favoured Nation (MFN) rate as scheduled in the WTO, and applied on imports EU products as long as the EPA has not entered into force.
- [3] Except for certain products under the TRQ-22 'Whey Products'. Details can be found in Annex 2-A-3 Section B – Point 23: <https://trade.ec.europa.eu/doclib/press/index.cfm?id=1684>
- [4] Products concerned: ex040610.090, 040620.200, ex040690.090
- [5] On the assumption that the Agreement would enter into force before 1 April 2019 (for instance in February 2019). The period between the entry into force and 1 April 2019 would count as a first year. The first duty reduction would be at the entry into force.
- [6] This annex can be found on: <https://trade.ec.europa.eu/doclib/press/index.cfm?id=1684>
- [7] Products concerned: 040610.020, ex040610.090, 040620.100, 040630.000, 040640.090, ex040690.090
- [8] Pro rata calculation (annual quantity of 20.000t x 2/12)
- [9] Products concerned: 040510.129, 040510.229, 040520.090, 040590.190, 040590.229, 040210.129, 040210.212, 040210.229, 040221.212, 040221.229, 040229.291, 040221.119, 040221.129, 040229.119, 040229.129, 040390.113, 040390.123, 040390.133, 040299.129, 040299.290
- [10] This annex can be found on: <https://trade.ec.europa.eu/doclib/press/index.cfm?id=1684>
- [11] Pro rata calculation (annual quantity of 12.857t x 2/12)
- [12] Products concerned: 040210.217, 040221.217. While both products are milk powders for feeding products, the first one has a maximum fat content, by weight, of 1.5% (skimmed milk powder); the second one of 5% (semi-skimmed or whole milk powder).
- [13] Products concerned: 040221.119, 040221.129
- [14] Pro rata calculation (annual quantity of 5.242t x 2/12)
- [15] Products concerned: 040410.139, 040410.149, 040410.179, 040410.189, labelled as "for the manufacture of mixed feeds containing added colouring matter which is recognised as in blue at the time of import".
- [16] Products concerned: ex040410.129, ex040410.139, ex040410.149, ex040410.169, ex040410.189, 040490.118, 040490.128, 040490.138
- [17] Details can be found in Annex 2-A-3 Section B – Point 23 (c): <https://trade.ec.europa.eu/doclib/press/index.cfm?id=1684>
- [18] Pro rata calculation (annual quantity of 6.200 t x 2/12)
- [19] Products concerned: ex040410.129, ex040410.139, ex040410.149, ex040410.169, ex040410.179, ex040410.189
- [20] Product concerned: 040410.200
- [21] Products concerned: 040490.111, 040490.117, 040490.121, 040490.127, 040490.131, 040490.137, 040490.200
- [22] Products concerned: 040310.211, 040310.219, 040310.220
- [23] Products concerned: 040310.110, 040310.120, 040390.116, 040390.117, 040390.126, 040390.127, 040390.136, 040390.137
- [24] Product concerned: 040390.200
- [25] Products concerned: 040291.129 and 040291.290
- [26] The products must be liquid at ordinary temperature, approximately from 1 to 32 degrees Celsius.
- [27] Product concerned: 040110.200
- [28] Products concerned: 040110.110, 040120.110, 040140.110, 040140.200, 040150.111, 040150.121, 040150.200
- [29] Product concerned: 040120.000
- [30] Product concerned: 040299.110

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# DAIRY PRODUCTS

## 1. JAPAN'S ORIGIN CERTIFICATION PROCEDURES in making a claim for preferential tariff treatment under the EPA

- In order to apply for the preferential tariff treatment under the EPA, the good to be imported must be an originating good under the EPA provisions.
- An importer in Japan, when making a claim for preferential tariff treatment, must at the time of the import declaration, and in accordance with the relevant EPA provisions, demonstrate that the good is EU originating by submitting the required documentation.

- This documentation must, in principle, be submitted to Japanese customs at the time of the import declaration.
- Further details can be found on the following websites:

[http://www.customs.go.jp/english/c-answer\\_e/imtsukan/1524\\_e.htm](http://www.customs.go.jp/english/c-answer_e/imtsukan/1524_e.htm)

<http://madb.europa.eu/madb/viewPageJFPubli.htm?doc=ppo&hscode=0402&countryid=JP>

<http://ec.europa.eu/chafea/agri/content/food-and-beverage-market-entry-handbook-japan>

## 2. JAPAN'S PROCEDURE FOR THE APPLICATION OF A TRQ SHARE

- Japan will allocate the tariff rate quota volumes in the dairy sector by issuing import licences, which will be valid for the whole quota year, i.e. from 1 April till 31 March. The method used will be "simultaneous examination", with several application periods over the quota year.

Applicants (Japanese importers) should submit a request for a quota share with an import plan explaining when they intend to import over the quota year. There is no condition of past import (i.e. the TRQs are open to all applicants provided they are registered in Japan). For some very popular TRQs where the number of interested importers might be very high, there is a preapplication/registration of Japanese importers before the application phase.

- A maximum application quantity may be set per TRQ. The full quota quantity will be made available at the first application period. Subsequent application periods will only be opened if the quota is not fully allocated.
- Allocations will be made either by pro-rata to the applied quantities or by lottery.
- Detailed guidelines for importers have been issued for Japanese importers by the Ministry of Agriculture of Japan end of December.

## 3. RULES OF ORIGIN

- The Rules of Origin (RoO) under the EPA are determined by product in the so-called Product Specific Rule of Origin (PSR), and listed in Annex 3-B of the Agreement<sup>1</sup>.
- As far as dairy products are concerned, the PSR stipulates that in manufacturing of a dairy product, the materials of Chapter 4 used in this manufacture, must be wholly obtained. For example, for EU yoghurt exported to Japan under the EPA, the milk must be produced in the EU, and hence have EU origin. According to this rule, all non-Chapter 04 materials, e.g. sugar, can be of non-EU origin.
- More information on RoO can be found in the relevant Factsheet and Guidelines, published on the website of the EU-Japan Centre.

<sup>1</sup> Annex 3-B can be found here: <https://trade.ec.europa.eu/doclib/press/index.cfm?id=1684>



### DISCLAIMER

*The Report has been prepared with the sole purpose of clarifying and simplifying the understanding of some parts of the EU-Japan EPA related to dairy products, and bear therefore no legal standing. While utmost care was taken in the preparation of the report, the author, the EU-Japan Centre, and the European Commission cannot be held responsible for any error or omission. This report does not constitute legal advice in terms of business development cases. As a result, only the legal text and annexes of the EU-Japan EPA, as well as relevant legislation in the EU and Japan prevail. The Report reflects the view of the author who cannot be held responsible for any use which may be made of the information contained herein.*

