



November 26, 2018

Ambassador Robert Lighthizer  
Office of the U.S. Trade Representative  
600 17th St. NW  
Washington, D.C. 20006

**RE: Docket ID Number USTR-2018-0034**

Dear Ambassador Lighthizer:

The National Corn Growers Association (NCGA) appreciates the opportunity to provide comment to the U.S. Trade Representative (USTR) regarding negotiating objectives for a United States-Japan Trade Agreement.

Founded in 1957, the National Corn Growers Association represents more than 40,000 dues-paying corn farmers nationwide and the interests of more than 300,000 growers who contribute through corn checkoff programs in their states. NCGA and its 49 affiliated state organizations work together to create and increase opportunities for corn growers.

NCGA's members sought a trade agreement to formalize the important relationship between the United States and Japan for many years and we support this endeavor. NCGA offers the enclosed comments in response to USTR's request to identify general and product-specific negotiating objectives; relevant barriers to trade in goods and services; economic costs and benefits to U.S. producers and consumers due to removal or reduction of tariffs and non-tariff barriers; treatment of specific goods; customs and trade facilitation measures; sanitary and phytosanitary measures and technical barriers to trade and other trade-related measures or practices that undermine fair market opportunities.

We appreciate the administration's efforts to secure economic relations with this important ally and NCGA looks forward to continued dialogue with USTR and the U.S. Department of Agriculture (USDA) as negotiations proceed. Thank you for your consideration.

Sincerely,

Lynn Chrisp, President  
National Corn Growers Association

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## **NCGA Comments Regarding U.S.-Japan Trade Agreement Negotiations**

Trade is a top priority for NCGA's farmer members, who have benefitted greatly from liberalized trade and free trade agreements in recent decades. Corn farmers have long counted on Japan as a leading export market and have spent decades developing this important partnership. Our interest in a long-term relationship with Japan is one of the core reasons NCGA was disappointed that the United States did not follow through with the Trans-Pacific Partnership (TPP) agreement. We encourage USTR to reference TPP as a template for what can now be achieved in an agreement with Japan.

For this agreement to be successful, it is important that it be comprehensive and address both tariff and non-tariff barriers related to food and agriculture interests. Referring to TPP achievements as guidelines for this negotiation would allow it to be completed expeditiously. The U.S.-Mexico-Canada Agreement (USMCA) also provides a blueprint for several key improvements over what was achieved in TPP, which these comments will highlight.

NCGA views trade negotiations with Japan as a critical step toward strengthening U.S. economic presence in the Asia-Pacific region. In the nearly two years since the United States withdrew from TPP, now called the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the United States has lost ground to the European Union (EU) and other major competitors, in terms of our ability to compete in Japan and other Asian countries. This setback does not just lead to American farmers facing stiffer competition for market access, it also results in the United States negotiating against competing trade philosophies and rules while trading with third countries. A trade pact with Japan is critical to U.S. competitiveness in Asia and U.S. engagement in the region must continue via other agreements.

### **Trade Benefits Agriculture and Rural Economies**

With 95 percent of consumers living outside U.S. borders and gains in domestic agricultural productivity, the future of the American agriculture economy depends largely on farmers' ability to sell to foreign markets. For many years, American farmers have invested in innovation, sustainability, safety and nutritional quality to offer the most consistent, competitive agricultural products, while also investing in strong relationships and activities that build international export markets.

As a result of industry's efforts and trade policies that opened up new markets to U.S. agricultural products, the U.S. food and agriculture industry has experienced record exports in recent years and consistently contributes positively to our nation's trade balance. U.S. food and agricultural exports reached more than \$140.5 billion in 2017, for a trade surplus of \$21.3 billion, according to the U.S. Department of Agriculture's Foreign Agricultural Service (FAS). Valued at \$11.9 billion in 2017, Japan is the fourth largest export market for U.S. food and agriculture.

The economic ripple effect of trade in rural economies is significant: agriculture and related industries contributed \$835 billion to the U.S. GDP in 2014, and jobs related to agriculture account for more than 9 percent of total U.S. employment – 17.3 million jobs. U.S. food and agricultural exports support more than 15 million jobs. Based on a U.S. Department of

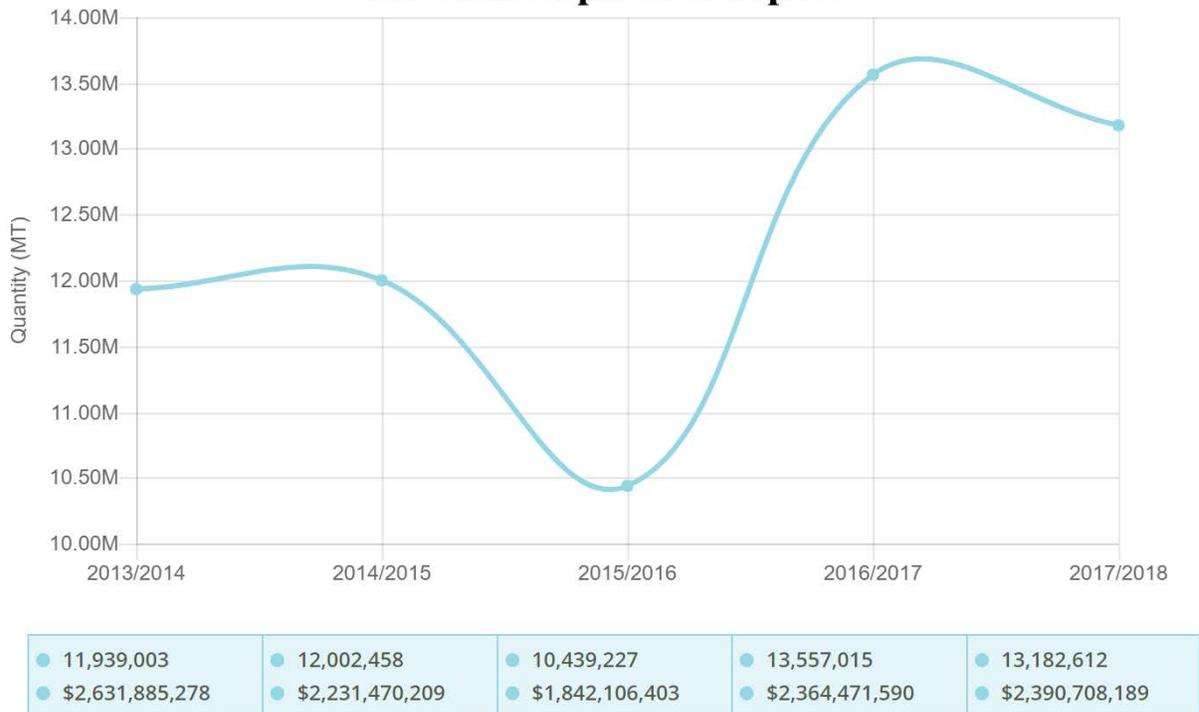
Agriculture estimate, for every \$1 of food and agricultural exports, another \$1.27 is generated in business activity. By that measure, in 2017, U.S. food and agricultural exports to Japan supported \$15.1 billion in additional business activity.

### U.S. Corn and Japan

The export of American corn is vital to the profitability of U.S. corn farmers and to the global food supply. Exports of all forms of corn, including corn-gluten feed, corn-gluten meal, distillers dried grains with solubles (DDGS), ethanol, livestock and poultry products, directly benefit corn farmers' incomes. Counting corn and corn products, more than 25 percent of the U.S. corn crop is exported annually. In the 2017/2018 marketing year, the United States exported 61.8 million metric tons (2.43 billion bushels) of corn for a value of \$11 billion.

Japan is the second largest market for U.S. corn exports and U.S. corn farmers have been a reliable supplier to this market for more than 50 years. In the 2017/2018 marketing year, Japan purchased nearly 13.2 million metric tons (520 million bushels) of corn. Japan also serves as the ninth largest buyer of U.S. DDGS, setting a new record for DDGS imports in 2017/2018, increasing 8.4 percent from 2016/2017 to 463,000 metric tons.

### U.S. Corn Exports to Japan



Source: U.S. Census Bureau Trade Data

The significance of the Japanese market, and the importance of locking this market in, is one of the main reasons NCGA supported the Trans-Pacific Partnership (TPP) prior to the U.S. departure from the agreement in 2016.

For agriculture and rural economies to capture the Asia-Pacific region's substantial growth opportunity, U.S. trade policy must solidify relationships with current trading partners, secure new agreements in markets that offer economic growth opportunities, reduce barriers to trade (including technical and other non-tariff barriers), and enforce existing trade rules and agreements.

### **NCGA Objectives for a U.S.-Japan Trade Agreement**

U.S. corn currently enjoys excellent market access and demand from Japan. NCGA's top priorities for this negotiation are to secure this market access for corn amid intensifying competition from other corn suppliers, to improve market access for other corn co-products, and to address technical, sanitary and phytosanitary, and other non-tariff barriers to trade between the parties, allowing for more efficient trade flows. NCGA participates in the U.S. Food and Agriculture Dialogue for Trade (the Dialogue) and supports the objectives included within the Dialogue's comments.

NCGA proposes the following negotiating objectives.

#### **Market Access**

Market access in the U.S.-Japan Agreement must match or exceed market access in competing regional and bilateral agreements in order for this agreement to perform for U.S. corn farmers. The Trans-Pacific Partnership should serve as a baseline for market access provisions. This negotiation should strive to eliminate and/or phase out tariffs and tariff-rate quotas (TRQs). Specific to corn and corn products, the agreement should:

- Maintain duty free access for corn for feed and DDGs. Corn-gluten feed should remain tariff free.
- Eliminate Japan's 3 percent in-quota tariff on corn other than feed.
- Allow U.S. corn for industrial use to continue to enter Japan duty free under autonomous 3.75 million metric ton (MMT) quota. Within this quota, allocate a semi-annual import quota specifically for corn used to produce starch that includes corn for starch, corn flakes, ethanol, distilled spirits and on-farm feed use, as well as sweeteners.
- Expand market access for corn used in all forms, including livestock and poultry products. If TPP is the market access guidepost for a U.S.-Japan trade agreement, U.S. meat exports could increase by \$632 million, driving more demand for corn as feed. US exports of beef are on track to reach \$2 billion this year, despite Japan's 38.5 percent tariff. However, when CPTPP takes effect on December 30, 2018, Canada and Mexico will enjoy immediate tariff reductions to 27.5 percent -- an 11 percent advantage over US exporter, and a rate already enjoyed by Australia due to its bilateral FTA. The U.S. pork industry's primary objectives during the negotiations will be to phase out import tariffs entirely over 3 years, similar to the KORUS agreement, and remove the gate price import tariff system or adjust it to allow for lower tariffs and more flexibility in exporting lower value pork cuts to Japan. At a

minimum, both the U.S. beef and pork industries should receive the same tariff benefits that their competitors receive through CPTPP.

- Create country-specific quota (CSQ) for starches based off TPP and expand Japan's current WTO starch TRQ by 7,500 tons.
- Japan is currently blending ethanol up to 2 percent of the total fuel consumption, as a feedstock component of ETBE. Japan's updated biofuel policy goal is to reduce greenhouse gas emissions by 55 percent, up from 50 percent. To ensure national level environmental objectives, Japan should ensure that the gasoline baseline carbon intensity is valued consistently with global standards and recognize the role that direct ethanol blending at blends greater than 10 percent has for achieving emissions reductions.
- Under TPP, Japan eliminated its 27.2 percent tariff on over 90 percent denatured ethanol for other purposes than beverage and industrial in eight years and eliminated its 10 percent tariff on over 90 percent ethanol for other purposes than beverages and industrial uses in 11 years. While this is an immense improvement over the current tariff structure, NCGA believes that ethanol (as an environmentally friendly, economic oxygenate) should face duties that are at a minimum, no greater than duties on oxygenates used in Japan—including ETBE. As ETBE can currently be imported to Japan duty-free, ethanol should face the same duties.

### **Sanitary and Phytosanitary Standards**

Harmonizing sanitary and phytosanitary standards (SPS) and resolving outstanding SPS disputes should be an objective of all trade agreements for trade to truly work. TPP contained improvements to SPS commitments beyond the WTO SPS Agreement and set the bar for a high standard SPS chapter. TPP's SPS chapter served as the basis for modernizing commitments to human health and animal and plant safety within USMCA, which built on TPP's standards. USMCA should serve as the aspirational basis for SPS Chapters in the U.S.-Japan trade agreement and future agreements. Some of the most important commitments achieved within USMCA that should be foundational to this agreement are:

- Strengthening disciplines on science and risk analysis
- Providing rapid notification of shipments held at point of import (Rapid Response Mechanism), and greater public input in the development of SPS regulatory measures.
- Instituting greater transparency and information sharing on audits, testing methods, and import checks.
- Establishing a committee on technical consultations to improve communication and coordination, and to resolve barriers to the export of food and agricultural products. This committee would function to ensure science-based SPS measures are developed and implemented in a transparent, predictable and non-discriminatory manner.

- Enforceable SPS obligations beyond WTO SPS obligations.
- Parties are required to base measures on international standards or risk assessments based on scientific principles. Provisional measures are allowed in the absence of international standards, with the expectation that parties will seek more information.
- Measures are to be applied only to the extent necessary to protect human, animal and/or plant life/health and in a manner that is not a disguised restriction to trade.

### **Biotechnology**

Biotechnology is an important part of U.S. corn production because it enables farmers to grow corn more efficiently and more sustainably. Unfortunately, biotechnology and products derived from biotechnology face discriminatory trade barriers and regulatory asynchrony that hinder trade. TPP included provisions on biotechnology, committing parties to be transparent and to make science-based decisions. It also included provisions to promote timely authorization of products of modern biotechnology.

TPP countries recognized that asynchronous biotechnology approvals and resulting incidents where detection of Low-Level Presence (LLP) of biotech material in an importing country that had not approved said biotechnology trait threatened trade. TPP included LLP procedures for countries to follow, however the TPP language had several deficiencies in that it was non-binding and did not achieve any improvement in the predictability of trade in the absence of synchronous approvals of biotechnology products. TPP also established a Biotechnology Working Group to facilitate an information exchange between parties on domestic laws, regulations and policies related to the trade of agricultural biotechnology products.

USMCA took an even bolder approach to addressing biotechnology, building on what was possible in TPP. USMCA recognized modern biotechnology and the regulatory implications of both *in vitro* nucleic acid techniques (including recombinant deoxyribonucleic acid (rDNA)), and direct injection of nucleic acid into cells or fusion of cells beyond the taxonomic family, that overcome natural physiological reproduction or recombinant barriers and that are not techniques used in traditional breeding and selection. These provisions create an opportunity for cooperation on policies for products produced through new plant breeding techniques. Like TPP, USMCA established a Working Group on Agricultural Biotechnology Cooperation. In an improvement over TPP, USMCA's biotechnology provisions were binding.

These provisions should be adopted in the U.S.-Japan agreement as well. NCGA also requests that the administration consider seeking a mutual recognition agreement with Japan on the safety determination of biotechnology crops intended for food, feed and further processing. While Japan has a regulatory process that is relatively synchronous with the United States, a mutual recognition agreement with Japan on safety determinations would close gaps in product approvals, reducing risk of trade disruptions and delays to farmers accessing advanced technologies.

### **Technical Barriers to Trade**

NCGA supports a Technical Barriers to Trade Chapter (TBT) that builds upon the WTO TBT agreement by strengthening rules for developing technical regulations and standards to ensure they are transparent, non-discriminatory and do not create unnecessary barriers to trade. We encourage the administration to refer to the USMCA TBT chapter text.

The USMCA TBT provisions require parties to apply decisions and recommendations adopted by the WTO TBT Committee that apply to standards, conformity assessment, transparency, and other areas. It requires transparency and public consultation. Parties must publish drafts of technical regulations and conformity assessment procedures and allow stakeholders in other countries to provide comments. It also allows authorities to address any significant issues raised by stakeholders and explain how the final measure achieves the stated objectives. It also establishes a Committee on Technical Barriers to Trade to monitor and strengthen implementation, to support coordination and to encourage information exchange.

### **Agricultural Export Subsidies**

The agreement should contain a commitment by both parties to eliminate agricultural export subsidies—which are considered among the most trade-distorting agricultural trade measures—on goods sold in both markets. The United States—which does not use agricultural export subsidies—has long sought to eliminate the use of such subsidies at the multilateral level. These provisions would also support the groundwork for global agricultural trade reform on export subsidies in the WTO.

### **Domestic Supports**

If supporting producers, parties should consider using domestic support measures with minimal or no trade or production effects to ensure transparency of domestic support programs.

### **Agriculture Safeguards**

Originating agricultural goods traded under preference from any party should not be subject to any duties applied by a party pursuant to a special safeguard taken under the Agreement on Agriculture

### **Food Security Export Restrictions**

Provisions should provide for limits on export restrictions on foodstuffs to six months, requires notification of both parties in advance when a country imposes such restrictions, and mandates consultation with interested importing countries if the restriction remains in place for more than 12 months. This provision would be intended to discourage countries from imposing export restrictions on food and agricultural products as a means of protecting their domestic market from changes in the world market. When countries do so with respect to staple food products like rice and wheat, poor countries relying on the international market to import food supplies can suffer immediate and sharp crises in access to food.

**Conclusion**

American corn farmers want to continue to compete and succeed in the growing global marketplace – their livelihoods depend on it. U.S. trade policy must advance this goal by securing trade agreements that remove barriers to U.S. agricultural exports, and prioritize markets where economic growth is concentrated, like countries in the Asia-Pacific region. NCGA urges USTR to pursue an expeditious timeline for negotiations with Japan, one that can be accelerated by relying on gains already achieved in TPP and USMCA to guide negotiations. We look forward to the U.S.-Japan Trade Agreement leading the way to a series of new trade agreements with nations in the Asia-Pacific region.