

FRESH AND FROZEN FOOD

Implications of the Trans-Pacific Partnership (TPP)





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About Asian Trade Centre (ATC)

The Asian Trade Centre (ATC) is the premier regional thought leader, advocate and educator for trade in Asia. We work with businesses and governments across Asia Pacific to make better trade policy.

Our activities include:

- Increasing capacities and knowledge of government and business leaders through training, workshops and seminars;
- Building bridges between government and business to foster the growth of trade in the region;
- Leading world-class research projects; and
- Conducting outreach to the media, business, NGOs and the interested public on trade issues

About Food Industry Asia (FIA)

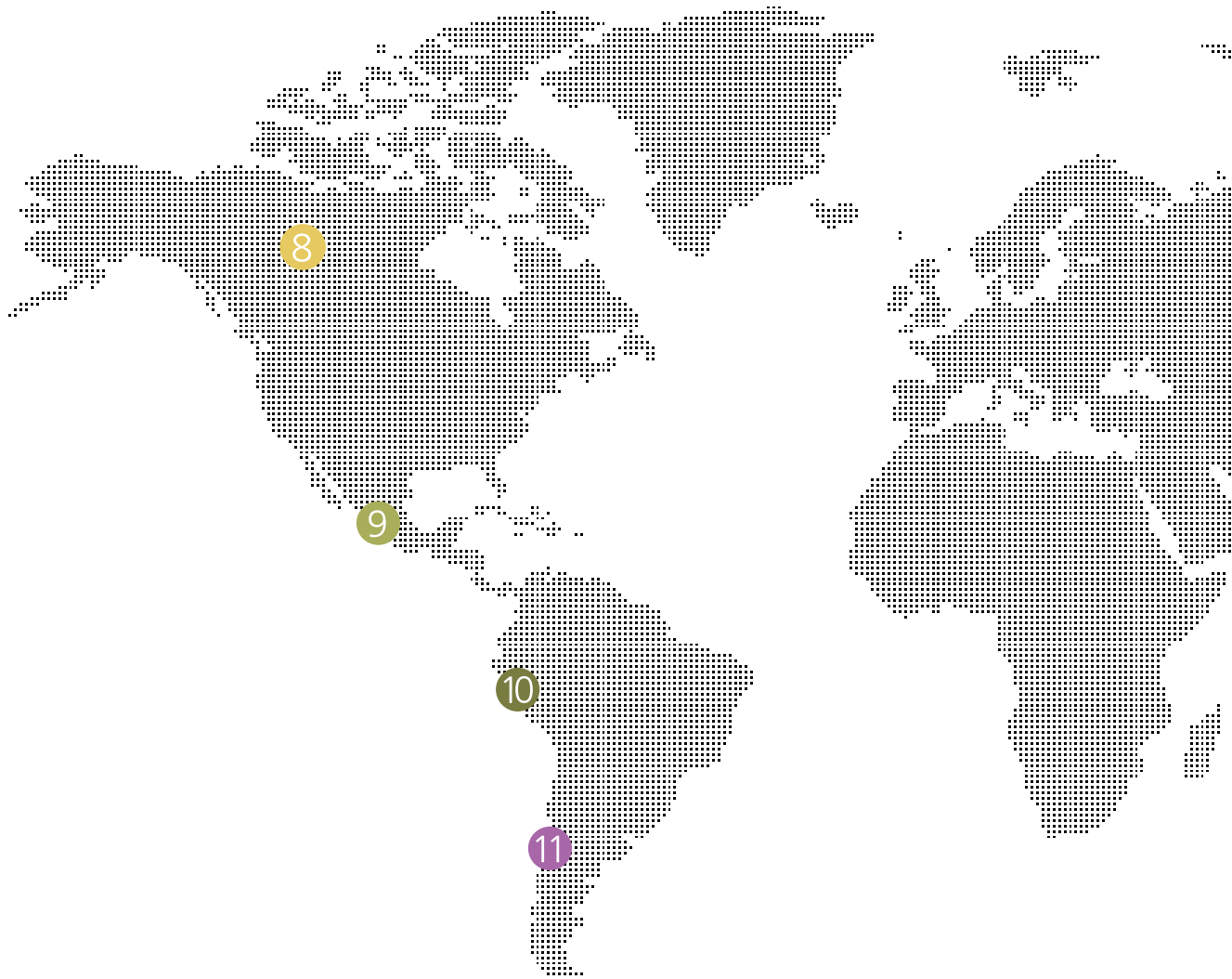
Food Industry Asia (FIA) is a non-profit organisation that was formed in 2010 to enable major food manufacturers to speak with one voice on complex issues such as food security, food safety and the harmonisation of standards. The organisation covers the whole of Asia, acting as a policy hub for national industry associations and affiliated groups to engage with public bodies and other stakeholders at a regional level.

Our Mission

To be a trusted partner for businesses and governments – building a vibrant food & beverage industry for a healthy and prosperous Asia.

Our Objectives

To represent the food & beverage industry in Asia – promoting a climate for sustainable growth and serving as a regional knowledge hub for science-based advocacy.



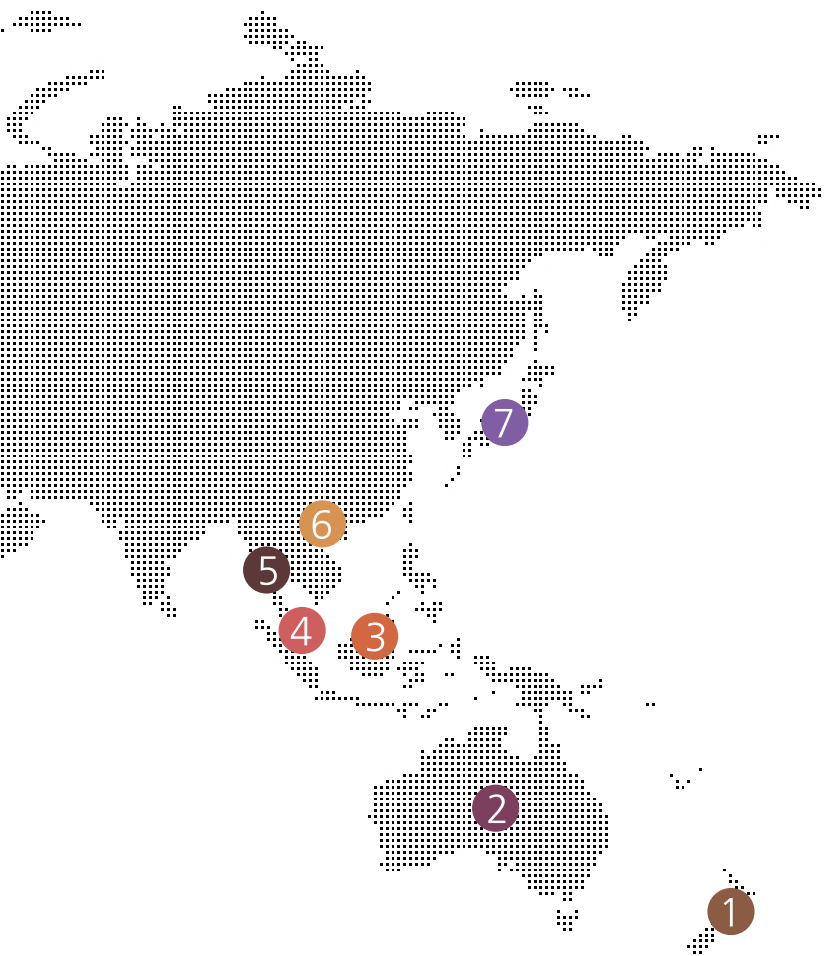
The Important Role of TPP in Agricultural Trade

The Trans-Pacific Partnership (TPP) trade agreement will be one of the most consequential trade agreements in twenty years, on par with the North American Free Trade Agreement (NAFTA) or China's entry to the World Trade Organization (WTO).

The TPP is deeper and broader than other agreements, containing 30 chapters that bind 11 member countries (Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam) together in ways typically covered in less depth or are even carved out completely.

Most of the TPP takes effect immediately. The majority of tariffs fall to zero on the first day of the agreement. All of the services and investment provisions kick in immediately. Much of the remainder of the agreement's rulebook becomes active from the first day, with some flexibility for rules in areas like intellectual property rights for a few countries like Vietnam. Once the TPP has been fully implemented, nearly all of the tariffs will be at zero for all of the TPP members.

These benefits apply even to traditionally sensitive items like agriculture. Though some sectors will not receive complete tariff elimination, the TPP will provide new opportunities for fresh and frozen food. Because the agreement can give substantial competitive advantages to firms and farmers based inside TPP countries for export to other TPP members, companies are likely to shift production, sales and services into TPP member markets.



- | | |
|---------------|----------|
| 1 New Zealand | 7 Japan |
| 2 Australia | 8 Canada |
| 3 Brunei | 9 Mexico |
| 4 Singapore | 10 Peru |
| 5 Malaysia | 11 Chile |
| 6 Vietnam | |

The TPP was originally negotiated with 12 members, but the United States has decided not to move ahead with the agreement under U.S. president Donald Trump. Nevertheless, the TPP provides significant advantages in the form of tariff cuts into the other 11 members, as this booklet demonstrates. Access to the American market is still relatively open, even for agricultural products, using most-favoured-nation (MFN) tariff rates. But do note that the portions of the TPP agreement that outline provisions into the U.S. cannot be used until or unless the U.S. ratifies the agreement in the future.

The complete legal text of the TPP agreement, including all annexes and schedules, can be found at: <http://www.tpp.mfat.govt.nz/tpp-text.php>.

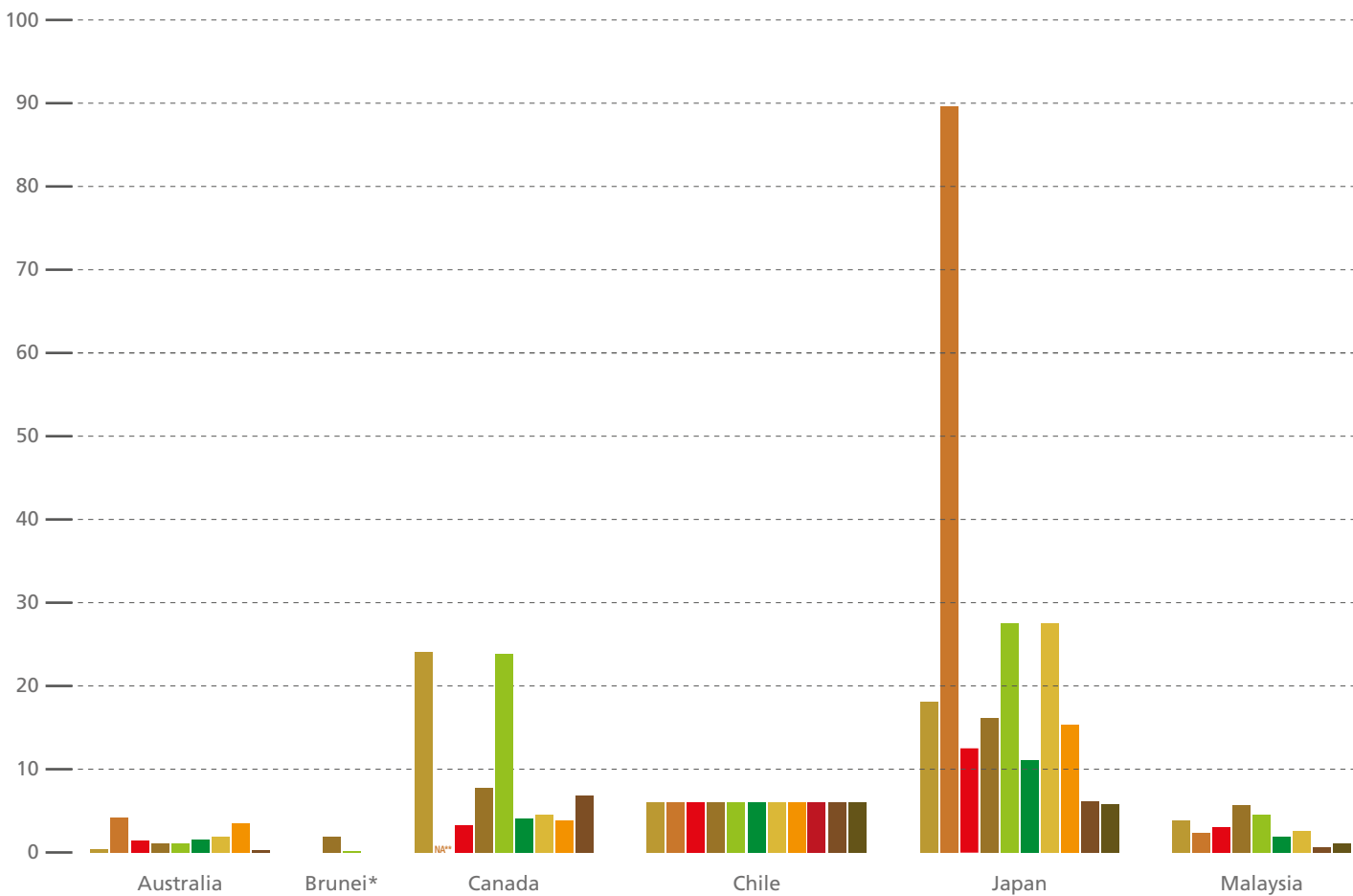
This booklet gives agricultural producers and farmers a brief overview of the benefits contained in the TPP.

New Opportunities for Fresh and Frozen Food

Agriculture has always been one of the most sensitive topics in trade agreement negotiations, leaving in place often high protectionist barriers. Agricultural markets are often especially difficult to penetrate given high tariffs, challenging rules of origin, tariff-rate quotas (TRQs), hard-to-navigate standards and border restrictions on the movement of food.

TPP negotiators were, however, able to liberalise market access to the widest range of agricultural products among existing FTAs. On the day the TPP comes into force, nearly 32% of Japan’s tariff lines on agriculture and food products will be eliminated, as well as 31% in Vietnam, 92% in Malaysia, 100% in Australia, and 99% in New Zealand.¹ The TPP also improves access for sensitive goods such as rice, beef and sugar. Over time, access improves across all member countries, eventually reaching nearly complete coverage. Do note that for some products, like dairy and sugar, new access under the TPP is more limited and in certain markets, delivered mostly through small permanent quotas.

Agricultural Average MFN Applied Tariff Rates 2012



Source: WTO Tariff Database

*2011 Applied Rates

**Canadian tariff rates for dairy products are too high to be included in this chart.

¹ <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/benefits-avantages/sectors-secteurs/01-AgriSector.aspx?lang=eng>

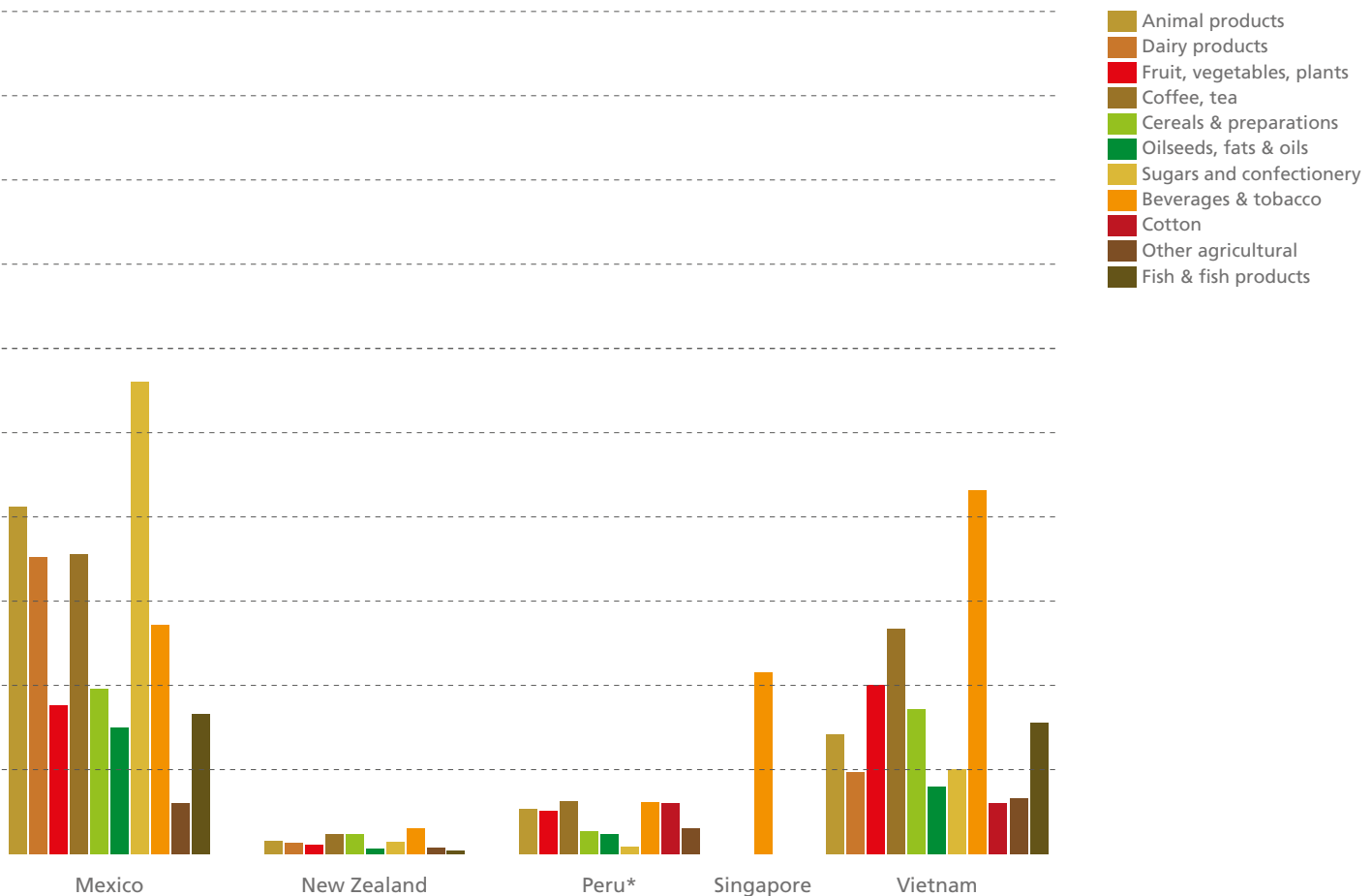
Tariffs

Agricultural exporters currently face a range of tariffs across TPP countries. Many tariffs on agricultural products, including fresh and frozen foods, can be quite high—levels of 20-40% are not uncommon and tariff peaks of more than 75% or higher are not unusual. The chart below shows the original tariff rates (most-favoured-nation or MFN) levels for TPP countries in agriculture.

The first and most obvious impact of the TPP will be the reduction in tariff rates across the board for qualifying products from TPP member countries into other TPP member countries. Nearly all of the tariff rates and peaks shown in the chart below will be reduced, with many tariffs falling to zero as soon as entry into force.

The complete tariff schedules for the TPP can be found for each TPP member state in the party specific annexes to Chapter 2 at https://www.mfat.govt.nz/assets/_securedfiles/Trans-Pacific-Partnership/Text/2.-National-Treatment-and-Market-Access-for-Goods.pdf. Interested parties should be sure to review the country notes that precede each tariff schedule, in order to understand the notation used within each schedule.

All tariff reductions and rules of origin (ROOs) in the TPP are tied to the Harmonized System (HS) of tariff codes that determines product categories.

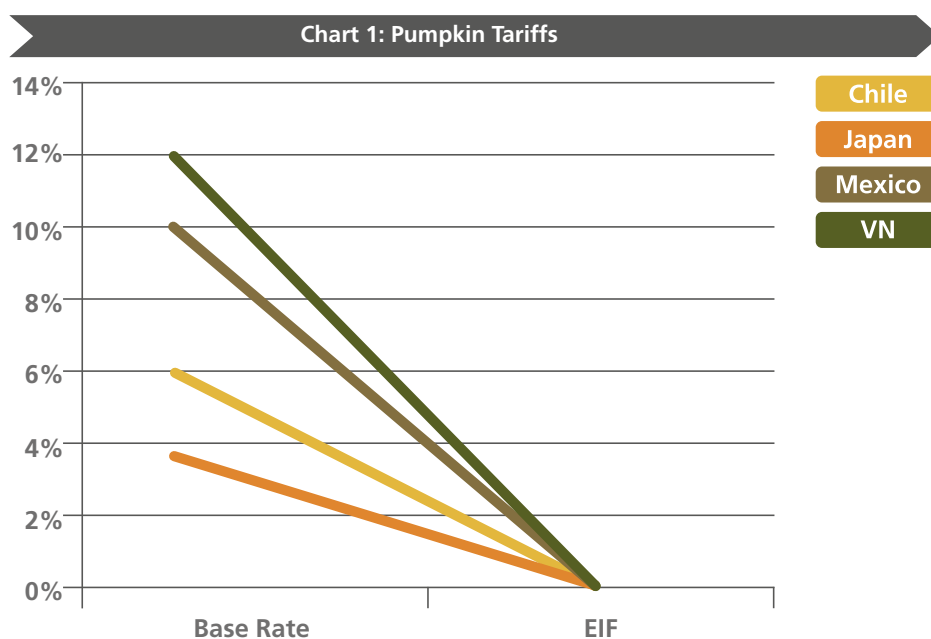


Specific Tariff Examples: Vegetables, Fruits and Nuts

To illustrate what the TPP does, consider the example of HS 07: edible vegetables and certain roots and tubers. With the exception of Japan and Vietnam, most countries will cut their tariffs on different kinds of edible vegetables and roots and tubers immediately, when the TPP enters into force (EIF). A few vegetables in this product category that are exported to Peru and Mexico will need to wait a longer time to see zero tariffs.

HS 07: Edible vegetables and certain roots and tubers			
	Country	Current Tariff Range	Tariff Elimination
Currently receiving zero tariffs	Brunei, Singapore	0%	EIF (entry into force)
All tariffs eliminated at EIF	New Zealand, Australia Chile Malaysia Canada	0% - 5% 0% - 6% 0 - 7% 0% - 12% \$0 - \$4.94/ton	EIF EIF EIF EIF
Most tariffs eliminated EIF Complicated tariff schedule	Peru Mexico Vietnam Japan	0% - 17% 0% - 245% 0% - 30% 0% - 15% ¥9 - ¥354/kg	0 - 16 years 0 - 15 years 0 - 8 years 0 - 11 years

As another example of TPP benefits, the tariff rates applied for pumpkins, a commonly traded product that demonstrates tariff reductions, currently range from 3% to 12% for Chile, Japan, Mexico and Vietnam. All fall to zero under the TPP as the chart shows. The remaining TPP members already receive duty-free (0) tariff rates for pumpkins.

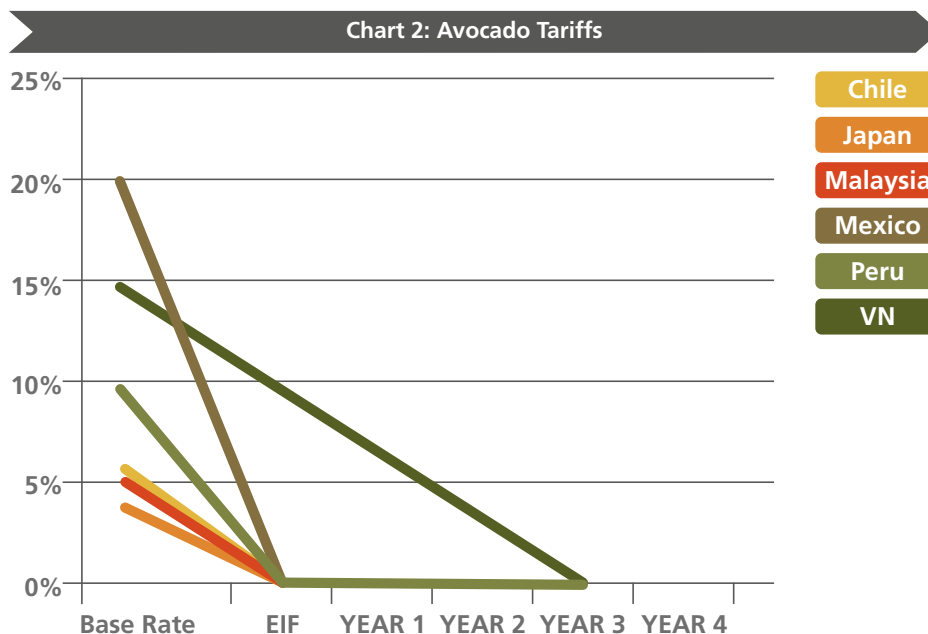


Tariff schedules for HS08: Tariffs on fruits and nuts are more complicated than those for vegetables and roots. Four countries (Australia, Canada, Chile and New Zealand) will cut all tariffs on fruits and nuts to zero on the day the TPP comes into force. Peru—with higher levels of existing tariffs (9%-17%) on these agricultural products—will

take a longer time to phase out tariffs. Other countries like Japan, Malaysia and Vietnam have more complicated tariff schedules with combinations of varying tariffs and treatments for different countries, as shown in the chart below.

HS 08: Edible fruits and nuts; peel of citrus fruit or melons			
	Country	Base Rate Range	Tariff Elimination
Currently receiving zero tariffs	Brunei, Singapore	0%	EIF
All tariffs eliminated at EIF	Australia, New Zealand	0% - 5%	EIF
	Chile	6%	EIF
	Canada	0% - 8.5%	EIF
Most tariffs eliminated EIF Complicated tariff schedule	Peru	9% - 17%	0 - 16 years
	Vietnam	5% - 40%	0 - 6 years
	Japan	0 - 32%	0 - 11 years
	Mexico	0% - 45%	0 - 15 years
	Malaysia	20% + 36¢/kg on sugar content 0 - 30% 5% and RM0.331 -RM1.323/kg RM0.608	0 - 11 years

Under the TPP, five member countries will remove tariffs for avocados on the day of entry into force (Chart 2), while Vietnam will take four years to match this treatment (Chart 2).



Another example product is the treatment of bananas. Several TPP countries already provide duty-free MFN treatment for all categories of bananas. As the table below shows, this will continue after the TPP. Chile will drop the 6% MFN rate to 0 on EIF. Vietnam will drop a current 31% base rate to 0 in four years. Several TPP members have complicated tariff rules for bananas before, eventually, all TPP members will be duty-free for all types of bananas.

HS 0803: Bananas

	Country	Base MFN Rate	Tariff Elimination Period
Currently receiving zero tariffs	Australia, Brunei, Canada, New Zealand, Singapore	0%	EIF
All tariffs eliminated at EIF	Chile	6%	EIF
Tariffs eliminated over time	Japan	20% (Fresh, imported April 1-Sept 30) 25% (Fresh, rest of year) 3% (Dried)	11 years 11 years EIF
extra	Malaysia	5% and RM1.3227	11 years reduction in both tariff rates and charge on all types of bananas and pisangs
	Mexico	20%	16 years (but not linear reduction)
	Peru	9% (all categories except Fresh Tipo)	EIF (16 year reduction for Tipo)
	Vietnam	31%	4 years

Livestock and Meat

Significant advances were made on meat and livestock. Japan, Peru, Mexico and Vietnam substantially cut beef and pork tariffs. This is good news for major exporters Australia, New Zealand and Canada, which also see rising demand from a more affluent Asia short of pasture, as well as complementary corn and soybean demand. Japanese pork tariffs require a report of their own, but there will be significant reductions for lesser cuts used in ham and sausages, with little change for those exporting higher quality cuts to Japan. In Vietnam, tariffs of up to 27% on fresh/chilled pork will be eliminated in nine years.²

Beef tariffs will be eliminated in Canada within six years, and in Mexico and Peru, within 10 and 11 years respectively. Tariffs on beef exported to Japan will also be reduced from 18.5% to 9% within 16 years.³ This is the lowest tariff rate Japan has committed to any FTA though Agricultural Safeguard Measures persist (see chart 4 below) and the tariff rate does not fall all the way to become duty-free. Nearly all tariffs on sheep-meat will be eliminated immediately when the TPP comes into force.⁴

Despite general liberalisation, the specifics are often complicated with different treatment for carefully, and often finely, differentiated product categories, tariff reductions that are complex, TRQs for many products, and safeguards in place for some members. This is true across a range of TPP countries, since livestock and meat products were considered sensitive in many member markets.

Rice

Rice exporters should realise significant potential benefits from the TPP as this free trade agreement will help to liberalise access to rice markets in most TPP countries, including those with high domestic protection.

Vietnam's 40% tariffs on all types of rice will be eliminated immediately when the deal comes into force. Starting with the same high tariff level for most types of rice as in Vietnam, Malaysia will take 10 years to become duty-free. Malaysia is one of the largest rice importers in Asia, so even a long tariff elimination schedule could still result

² <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/ppp-ptp/benefits-avantages/sectors-secteurs/01-AgriSector.aspx?lang=eng>

³ https://www.tpp.mfat.govt.nz/assets/docs/TPP_factsheet_Meat.pdf

⁴ https://www.tpp.mfat.govt.nz/assets/docs/TPP_factsheet_Meat.pdf

in benefits to TPP rice exporters. Similarly, Mexico will take 10 years to remove the 20% tariff on long-grain rice, while Chile has agreed to eliminate its 8% tariff on rice within eight years. However, the good news for some rice exporters to Mexico is that the 10% tariff rate on one type of rice, broken rice, will be removed immediately under the TPP.

For Japan, rice remains one of the most sensitive agricultural products. Unlike Australia where production is dominated by several huge rice farms, Japan has a high number of tiny, geographically diverse rice farms.⁵ Japan's tariff schedule for rice shows modest concessions where the country has agreed to increase tariff-rate quotas (TRQ) within 13 years for Australia.

Seafood

Unlike the World Trade Organization (WTO), the TPP treats seafood and fish as food rather than industrial goods. All tariffs on fish and seafood will be eliminated under the TPP. Many of these products currently have high tariffs into many TPP markets.

Each country has a different schedule for this commitment. As with other goods, some countries reduce tariffs more quickly than others. There are several significant reductions, such as Mexico's and Vietnam's 20% and 15% tariffs on red salmon tariffs, respectively, being removed.

Dairy

For dairy products, outcomes under the TPP are highly varied and can be extremely complicated in some TPP markets. While certain products (including protein products, ice cream and infant formula) will mostly enjoy tariff-free access into all TPP markets after several years, a range of other dairy products are subject to permanent Tariff Rate Quotas (TRQs) and safeguards.

For example, at the end of the transition period of the TPP (35 years), dairy exporters will still trade through quota volumes for: butter and milk powder to Japan; milk powder, cheese and butter into Mexico; and butter, cheese and milk powder into Canada.

Rules of Origin

The reduction in tariffs is important, but not every product crossing the border into a TPP member country will automatically qualify for these reduced duty rates. The TPP has a single set of rules of origin (ROOs) that applies to all members—once a product qualifies as TPP-originating, it qualifies for all 11 countries automatically.

The ROOs are all product-specific. Each tariff line has a specific, matching ROO that must be met in order to qualify for the tariff reduction as indicated in the TPP tariff schedules.

ROOs are likely to have less of an impact on fresh and frozen foods as these products are generally wholly obtained. The specific ROOs (Art. 3.3) for wholly obtained food include the following:

- (a) a plant or plant good, grown, cultivated, harvested, picked or gathered there [in a TPP country];
- (b) a live animal born and raised there;
- (c) a good obtained from a live animal there;
- (d) an animal obtained by hunting, trapping, fishing, gathering or capturing there;
- (e) a good obtained from aquaculture there; and
- (g) fish, shellfish and other marine life taken from the sea, seabed or subsoil.

⁵ Elliott, K. A., Freund, C., Gelpert, A., Hendrix, C. S., Hufbauer, G. C., Kotschwar, B., ... & Petri, P. A. Assessing the Trans-Pacific Partnership, Volume 1: Market Access and Sectoral Issues (No. PIIEB16-1). Peterson Institute for International Economics.

Do note, however, that the ROOs on processed foods can be quite different. Food producers and manufacturers should take care to ensure that their products meet the ROOs associated with their specific tariff lines as specified in the TPP Annex 3-D. More details on the substantial transformation ROOs that apply to all non-wholly obtained foods (anything that does not fit the criteria shown above) can be found in our booklet “Processed Food - The Implications of the Trans-Pacific Partnership (TPP).

Tariff Rate Quotas in the TPP

From the earliest days of negotiations, it was clear that some sensitive agricultural goods would prove problematic. The reduction of tariffs means that formerly protected sectors could be exposed to new competition from TPP members. Hence, some TPP countries chose to use a special mechanism for agricultural items called the tariff rate quota (TRQ) for some products. TRQs are used mostly for dairy, beef and sugar.

A TRQ works by limiting the quantity of a good that may be imported at a given tariff. For example, the first 50 tonnes per year of wheat may incur a 10% tariff, but any amount beyond that receives a much higher tariff, often as high as 50%, making the export unviable.

This 50-tonne quota may be divided among different TPP countries—for example, by granting Australia access to 10 tonnes, Mexico at 5 tonnes and so forth. Dividing a small quota can mean that the allotment of a good for any exporting country may be used up well before the end of the calendar year.

Many of the tariff lines that contain TRQs do not result in new market access for all TPP partners. In some circumstances, TPP parties simply shifted quota allocations from one party to another.

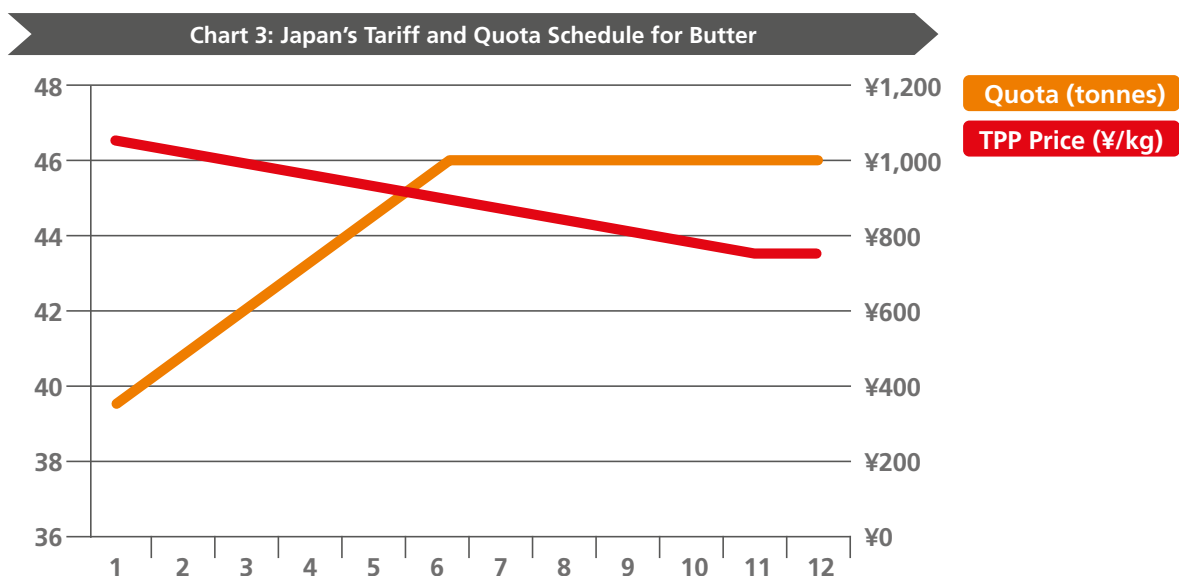
Tariff Rate Quotas in the TPP				
Canada	Japan	Malaysia	Mexico	Vietnam
Dairy, eggs, poultry	Wheat, barley, dairy, cocoas, chocolates, oils, coffee, teas, candies, sugars, rice	Live poultry, some pork products, milk and eggs	Dairy, palm oil, sugar	Sugar, salt, non-agricultural products

Use of TRQs is described in Annex 2D of the agreement. Most cover agricultural products although Vietnam applied them to used vehicles and tobacco. Brunei, Chile, New Zealand, Peru and Singapore did not schedule any TRQs at all for any TPP members or products.

Quotas in Practice: Japanese Butter Imports

Under TPP, the tariff rate for Japanese butter has two components—an ad valorem tariff that remains at 35% and a Yen (¥) per kilogram tariff that falls to zero across 11 years. The quantity of the quota increases 16.6% over six years to 45,898 metric tonnes and remains at that level. The out-of-quota tariff rate remains at the WTO most-favoured nation (MFN) rate of 29.8%, plus ¥985/kg.

The graph shows the change in quota and tariff levels over 12 years of the TPP (assuming that the world price of butter remains at ¥550/ kg). This price includes tariffs but excludes other costs such as freight and insurance. Under this model, the MFN price would remain at ¥1,700 – 65% higher than that in the first year of the TPP price.



TPP-based butter firms will be competing for an additional 6,000 tonnes of in-quota allotments, which will be administered by Japan on a first-come first-served basis across all TPP members. This arrangement is protectionist, though still better than that afforded to other WTO members.

Protection Mechanisms

While the TPP generally opens up markets, there are a few mechanisms or tools that protect agricultural products that are worth noting.

For some seafood and forestry products coming into Japan, companies may have to comply with an additional set of rules—called tariff differentials—as well. Companies in these sectors should review the annexes in 2D.

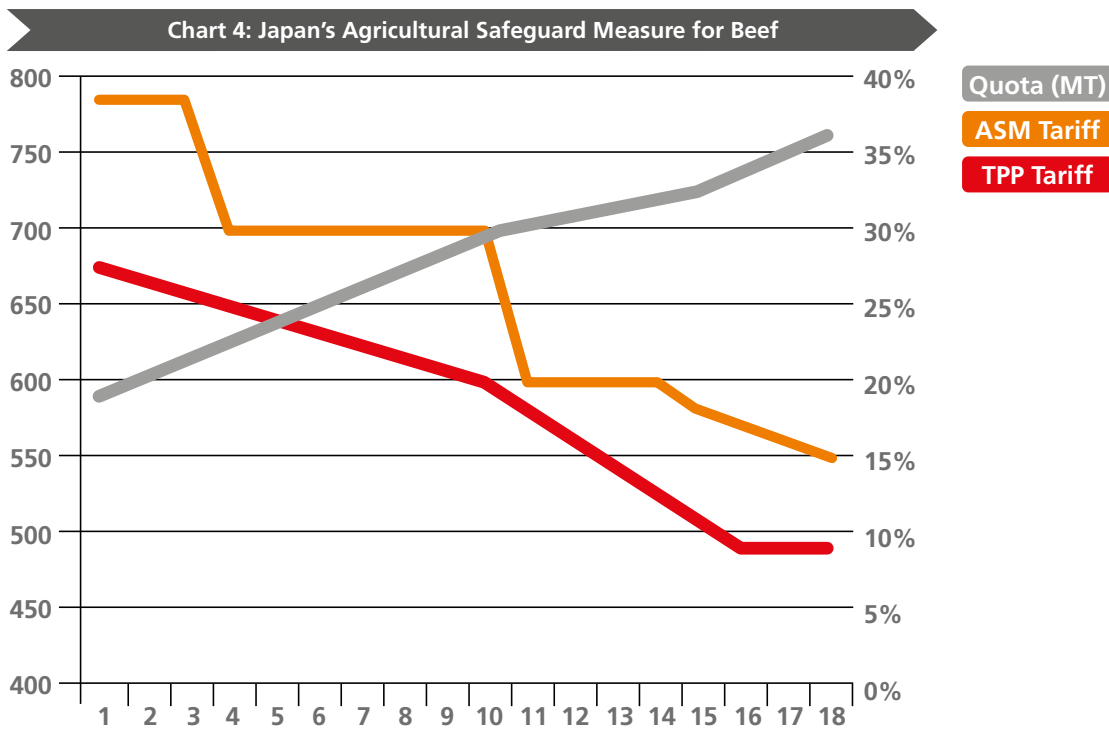
Also note that many TPP members signed “side letters” that contain specific bilateral commitments. These bilateral exchanges are available on individual TPP country websites. New Zealand and Canada, for example, have a side letter on wine and spirits. New Zealand and Peru have one on geographical indications.

All TPP members can also use the safeguard mechanisms outlined in the trade remedy chapter in the agreement. But the TPP also contains some specific agricultural safeguard mechanisms for Japan, including commitments to protect beef and pork, milk powders, fresh oranges and race horses from import surges.

As an illustration, consider Japan’s safeguard for beef. Japan, the world’s third largest beef importer (over US\$3 billion in 2014), will reduce tariffs for all beef products from 38.5% to 9% over 16 years. This will be significant, given that all of Japan’s beef imports come from TPP countries. However, Japan has a lengthy appendix detailing “agricultural safeguard measures”, meaning that if beef imports exceed a certain annual limit, a higher tariff (though still lower than the WTO’s MFN) will apply. With Japan’s beef imports forecast to exceed 800,000 metric tonnes (MT) by 2019, around a quarter of imports will likely incur higher tariffs.^{6, 7}

⁶ <http://www.thecattlesite.com/articles/2578/fapri-2010-agricultural-outlook-world-meat/>

⁷ From Appendix B-1. These schedules do not apply to cheek or head meat, which have higher tariffs. After year 16 the ASM tariff will reduce by 1 percentage point. If Japan does apply the safeguarding measure in a given year, the tariff will not reduce the following year. This means it would take a minimum of 25 years for the ASM quota to reach the level of other tariffs. However ASM will lapse entirely if it is not invoked for four consecutive years beyond year 15.



Trade Facilitation

For agricultural traders and other goods companies, rules for tariff reductions and ROOs are not the only things that matter. The processes and procedures for getting goods in and out of TPP member countries are also important. Fortunately, TPP rules for customs and trade facilitation are likely to prove extremely helpful for companies.

The TPP generally promotes efficient and transparent customs procedures. Specific provisions include:

- Simpler certificate of origin (CO) requirements
- Self-certification (no CO paperwork at all needed), provided certain standards are met
- Only require one certificate of origin over multiple consignments, greatly reducing paperwork
- Expedited and consistent customs treatment at all domestic entry points for TPP countries, including the use of automated systems
- Advance rulings to allow companies to receive a decision from customs officials about tariff classification and ROO determinations, which will remain in effect for a full calendar year
- Specific rules for express shipments and expedited delivery processes to include six-hour guidelines to clear customs for perishable items
- Pre-arrival processing and guaranteed release within specific time periods

SPS and TBT

While tariffs matter to farmers and agricultural producers, some of the greatest barriers to trade can be loosely lumped together under the heading of non-tariff barriers. These include both sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT). Such barriers run the gamut from inconsistent testing methodologies to non-harmonised pesticide regulations to different rules for labelling products.

Early on in negotiations for the TPP, officials often spoke with enthusiasm about a desire to achieve regulatory coherence. While TPP Chapter 25 has this title, most of the content of these discussions were ultimately removed and put into the SPS and TBT chapters instead. What remains in Chapter 25 is mostly descriptions of how TPP parties intend to foster future regulatory cooperation, increase transparency in procedures and encourage contact points across TPP members.

The TPP parties attempted to address many of the non-tariff and other regulatory barriers, but in most instances, the gaps between the 11 member states were simply too large to overcome in the negotiations. Hence the rules put in place in the agreement might be best regarded as a basic framework, rather than any true achievement, for now, in creating meaningful and deeper regulatory integration.

For SPS, Chapter 7 requires that all health-based restrictions on goods are based on science, as are risk-assessment systems put into place to screen products. The agreement refers to specific international standards, including the Codex Alimentarius and the WTO SPS agreement. Any shipments that are stopped for SPS reasons have to be reported under tight timelines, with a special consultation system put in place between members for addressing SPS issues and a special dispute resolution system just for such concerns. Over time, the consultation mechanisms, transparency procedures and recommendations on equivalence may evolve into something more meaningful (or may not).

The TBT chapter is notable for agriculture, chiefly for three specific annexes. Annex 8-A covers wine and distilled spirits rules in detail, including such matters as information that can and cannot be required on labels and allowable certification procedures. Annex 8-F covers proprietary formulae for pre-packaged foods and food additives. The annex says that member governments must collect only information related to legitimate objectives and keep such information confidential. Annex 8-G on organic products encourages TPP parties to be transparent and consistent in regulations regarding organic products, and to work toward equivalence recognition.

Conclusion

The TPP provides new opportunities for agriculture. After the TPP enters into force, it will significantly reduce tariffs in a number of areas; in some cases, straight away, and in others, more slowly. This will lead to greater competition, better value products and newly viable export markets. Producers, importers and investors will need to look at new agricultural opportunities.

The TPP is a complicated agreement. The agricultural provisions are particularly challenging. Farmers, growers and producers can always decide not to use the TPP rules. All existing trade agreements will continue to exist and can be used by exporters, even after the TPP becomes active, and exporters can always use MFN rules.

But the benefits available for food producers are substantial enough for nearly every product into nearly every TPP member market, and it should be worth the investment of time and effort to understand and use the TPP.

NOTE:

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