

DECISION OF THE JOINT COMMITTEE ESTABLISHED UNDER THE AGREEMENT ON
FREE TRADE AND ECONOMIC PARTNERSHIP BETWEEN JAPAN AND THE SWISS
CONFEDERATION

No. 2 of 2009

(Adopted on 1 September 2009)

OPERATIONAL PROCEDURES FOR TRADE IN GOODS

THE JOINT COMMITTEE,

Having regard to the Free Trade and Economic Partnership Agreement between the Swiss Confederation and Japan, signed in Tokyo on 19 February 2009 (hereinafter referred to as “the Agreement”),

Whereas:

Article 24 of the Agreement provides that the Joint Committee shall adopt the Operational Procedures for Trade in Goods,

DECIDES:

Article 1

The Operational Procedures for Rules of Origin are adopted as set out in the Annex to this Decision.

Article 2

This Decision enters into force with immediate effect.

Annex to Decision No. 2 of 2009 of the Joint Committee

OPERATIONAL PROCEDURES FOR TRADE IN GOODS

**referred to in Chapter 2 of the Agreement on Free Trade and Economic Partnership
between Japan and the Swiss Confederation**

The Operational Procedures should apply to the pertinent provisions in the Schedules of Japan and Switzerland in Annex I of the Agreement on Free Trade and Economic Partnership between Japan and the Swiss Confederation (hereinafter referred to as “the Agreement”).

Chapter I Tariff Rate Quota (TRQ)

1. Note 2(Qa) in Section 1 of Appendix 1 of Annex I referred to in Chapter 2

(a) For the purposes of the above-mentioned Note, the Federal Government of Switzerland should authorize the Cantonal Chambers of Commerce of Switzerland or the Chamber of Commerce of Liechtenstein to certify each contract between an exporter or producer and an importer as the certificate issued by the exporting Party referred to in paragraph(C) of Note2 (Qa) in Section 1 of Appendix 1 of the Agreement by placing the official stamp of the competent Chamber of Commerce on the contract in English, upon request of the exporter or producer, confirming that the contract contains the following elements.

The certified contract as the certificate referred to in the above should be valid only when the contract includes the following data:

Reference code;

Date of contract;

Exporter's name and address;

Importer's name and address;

Description of product(s); and

Quantity (with measure unit).

The certified contract as the certificate referred to in the above should be valid for 3 months from date when the contracts is certified.

Switzerland should provide the Embassy of Japan in Switzerland with the specimen impressions of stamps which will be used by the Chambers of Commerce, within 30 days from the date of the adoption of the Operational Procedures. The customs authority of Switzerland should notify the Embassy of Japan in Switzerland of any modification before the effective date of such modification. The notifications should be made by any method that produces a confirmation of receipt.

(b) The customs authority of Switzerland should demand the Chambers of Commerce to take necessary measures to avoid counterfeiting any certified contract as the certificate referred to in subparagraph(a).

(c) Eligible importers should apply for a certificate of tariff rate quota to the International Affairs Department of the Ministry of Agriculture, Forestry and Fisheries of Japan, providing a certified contract as the certificate referred to in subparagraph (a). The International Affairs Department of the Ministry of Agriculture, Forestry and Fisheries of Japan should issue a certificate of tariff rate quota as quickly as possible, but no later than 10 working days after receiving the application, and allocate the quota of the fiscal year of Japan which it issues the certificate of tariff rate quota, provided that the conditions set out in the laws and regulations of Japan are fulfilled.

(d) The International Affairs Department of the Ministry of Agriculture, Forestry and Fisheries of Japan should make its effort to provide to the Federal Office for Agriculture of Switzerland with the information related to the aggregate amount of allocated quotas no later than on the 15th of each month following the month in which the quotas were allocated and with the information related to the aggregate of quotas which are actually utilized as soon as it becomes available in the next fiscal year of Japan.

(e) The International Affairs Department of the Ministry of Agriculture, Forestry and Fisheries of Japan should notify the fact to the Federal Office for Agriculture of Switzerland as soon as possible, when it has issued certificates of tariff rate quota for all the aggregate quota quantity for each fiscal year of Japan as set out in the Agreement. The Federal Office for Agriculture of Switzerland should inform the Chambers of Commerce and all the exporters and producers of the fact and advise the Chambers of Commerce not to certify the contract as the certificate referred to in subparagraph (a) until the end of the fiscal year of Japan.

(f) When all the aggregate quota quantity for each fiscal year of Japan as set out in the Agreement has been allocated by the International Affairs Department of the Ministry of Agriculture, Forestry and Fisheries of Japan, even if a certified contract as the certificate referred to in subparagraph (a) is submitted to the Department during the validity period, the certificate will not be entitled to have the quota until the end of the fiscal year of Japan.

If the quantity of the product indicated in a certified contract as the certificate referred to in subparagraph (a) exceeds the remaining quota quantity for the fiscal year of Japan, even if the certified contract as the certificate referred to in subparagraph (a) is submitted to the International Affairs Department of the Ministry of Agriculture, Forestry and Fisheries of Japan during the validity period, the exceeding quantity will not be entitled to have the quota until the end of the fiscal year of Japan.

2. Notes 2(Qb) to 2(Qf) in Section 1 of Appendix 1 of Annex I referred to in Chapter 2

(a) For the purposes of the above-mentioned Notes, importers should apply for a certificate of tariff rate quota to the International Affairs Department of the Ministry of Agriculture, Forestry and Fisheries of Japan.

For the first fiscal year of Japan, the International Affairs Department of the Ministry of Agriculture, Forestry and Fisheries of Japan should issue a certificate of tariff rate quota as soon as possible after the date of entry into force of this Agreement, provided that the conditions set out in the laws and regulations of Japan are fulfilled.

For the subsequent fiscal years of Japan, the International Affairs Department of the Ministry of Agriculture, Forestry and Fisheries of Japan should issue a certificate of tariff rate quota, in principle, on 1 April of each year, provided that the conditions set out in the laws and regulations of Japan are fulfilled.

If there is remaining quota, the International Affairs Department of the Ministry of Agriculture, Forestry and Fisheries of Japan should issue a certificate of tariff rate quota as quickly as possible, but no later than 3 weeks after receiving the application, provided that the conditions set out in the laws and regulations of Japan are fulfilled.

(b) The Ministry of Agriculture, Forestry and Fisheries of Japan should make its best effort to provide to the Federal Office for Agriculture of Switzerland with the information related to the aggregate amount of allocated quotas no later than on the 15th of each month following the month in which the quotas were allocated and with the information related to the aggregate of quotas which are actually utilized as soon as it becomes available in the next fiscal year of Japan.

3. Notes 5 in Section 1 of Appendix 2 of Annex I referred to in Chapter 2

For the purpose of the above mentioned Note, the tariff rate quota should be administered on a first-come-first-served basis up to the aggregate quota quantity for each year of Switzerland, provided that the conditions set out in the laws and regulations of Switzerland are fulfilled. No certificate of tariff rate quota issued by Switzerland should be needed. The aggregate amount of the actually utilized quotas should be updated on a daily basis and be made publicly available on the website of the customs authority of Switzerland.

Chapter II Declaration Required for Preferential Tariff Treatment for a Product Classified under the Tariff Line Indicated with “(Qb)” or “(Qf)” in Column 5 of the Schedule of Japan (Declaration on a Product)

1. Issuance of Certificate of Origin which includes a Declaration on the Product

It is appropriate that the competent governmental authority of Switzerland or its designees would take steps to verify, to the extent possible, the correctness of a declaration on a product on a Certificate of Origin prior to issuance of the Certificate of Origin, if there is reasonable doubt on the correctness of the declaration on a product.

2. Verification related to paragraph 3 of Attachment 2 of Appendix 1 of Annex 1

(a) For the purpose of the verification in accordance with paragraph 3 of Attachment 2 of Appendix 1 of Annex 1, the competent governmental authority of Switzerland should, upon request of the customs authority of Japan, verify the declaration on a product, in accordance with the laws and regulations of Switzerland and the Agreement.

(b) It is appropriate that the result of the verification of the correctness of the declaration on a product would indicate clearly whether the product concerned is classified as the product indicated in the declaration on a product.

(c) If the reply to the request for the verification referred to in subparagraph (a) does not confirm the correctness of the information in a declaration on a product, the customs authority of Japan may consider that the conditions for the purposes of determining whether to grant preferential tariff treatment are not met.

3. Minor errors

The customs authority of Japan should disregard minor errors in a declaration of a product, such as omissions, typing errors or protruding from the designated field, provided that these minor errors may not affect the accuracy of the declaration on a product. In any case, filling in a declaration on a product an incorrect item number of a product which is inconsistent with the number specified for the product in the List of Natural Cheeses in paragraph 1 of Attachment 1 of Appendix 1 of Annex I to the Agreement should not be regarded as a minor error.

4. Prevention of falsification

For the purpose of Article XXVII of Annex II of the Agreement, falsification of a declaration on a product should be regarded as a fraudulent act. It is appropriate that the competent governmental authority of Switzerland and the customs authority of Japan should take necessary measures to prevent falsification of a declaration on a product.

Chapter III Exchange information and consultation

1. Exchange information and notification

(a) For the purposes of the administration of the tariff rate quota referred to in Chapter I , the Parties should exchange information on any related matter.

(b) For the purpose of the declaration on a product referred to in Chapter II , the competent governmental authority of Switzerland should, when it learns that the product covered by the declaration on a product is not classified as the product indicated in the declaration on a product, notify promptly the fact to the customs authority of Japan.

2. Consultation

(a) For the purposes of resolving any matter arising with respect to Chapter I or Chapter II , the consultation between the Parties may be made through the Federal Office for Agriculture and the customs authority of Switzerland, as appropriate, on the Swiss side, and the Ministry of Agriculture, Forestry and Fisheries and the Ministry of finance, as appropriate, on the Japanese side.

(b) If the Parties fail to resolve through consultations referred to in subparagraph (a), ad hoc working group which may be established pursuant to the paragraph 3 of the Article 148 of the Agreement, may consider any matter referred to in subparagraph (a), and should be composed of officials from the appropriate governmental bodies referred to in subparagraph (a), the Ministry of Foreign Affairs of Japan and, if necessary, other governmental bodies.