

# CRS Report for Congress

Received through the CRS Web

## Japan-U.S. Beef Trade Issues

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### Summary

Japan banned imports of U.S. beef in late 2003, when the United States reported the discovery of a single cow with bovine spongiform encephalopathy (BSE or “mad cow disease”). U.S. officials had announced in October 2004 that a bilateral agreement meant that Japan, formerly the top foreign market, could soon resume U.S. beef imports. However, despite continuing pressure on the Japanese by the Bush Administration and Members of Congress, U.S. beef sales there are not expected to begin before the summer of 2005 at the earliest. This report will be updated if significant developments ensue.

### U.S.-Japan Beef Trade

Until December 23, 2003, when the United States reported its first and only BSE case, in a Canadian-born cow, Japan was the leading foreign customer for U.S. beef.<sup>1</sup> U.S. beef sales to Japan by 2000 had reached about 546,000 metric tons (MT) and \$1.814 billion, but declined over the next two years, to 332,000 MT and \$1.028 billion in 2002. This decline has been attributed to the discovery of BSE in Japan in September 2001, which caused domestic consumption to decline there.

U.S. beef exports to Japan increased in 2003 to nearly 367,000 MT and \$1.394 billion. Japan accounted for 29% of the total of 1.274 million MT of U.S. beef exported worldwide in 2003. On a value basis, Japan accounted for 36% of all U.S. beef exports of \$3.862 billion in 2003. (The other top U.S. buyers were Korea, which remains closed, and Mexico and Canada, which are again accepting some types of U.S. beef. Several other countries that had initially banned U.S. beef imports also are now accepting some beef.)

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<sup>1</sup> In this report, “beef” refers to beef, veal, and beef variety meats (e.g., liver, intestine, tripe, tongue). Information and data sources for this report include U.S. Department of Agriculture (USDA), including Economic Research Service (ERS), “Japan: Issues and Analysis,” at [<http://www.ers.usda.gov/Briefing/Japan/issuesandanalysis.htm>]; U.S. Meat Export Federation; CRS Issue Brief IB10127, *Mad Cow Disease: Agricultural Issues for Congress*; and CRS Report RS21709, *Mad Cow Disease and U.S. Beef Trade*.

Japan had exported some speciality beef (primarily cuts of Kobe and Wagyu beef) to the United States. Such imports, which reached 15.2 MT and \$1.4 million in 1999, have been banned by USDA since 2000, initially because foot-and-mouth disease was found in Japan, and since September 2001 because BSE was found there.<sup>2</sup>

## U.S. Industry Impacts

A rise in U.S. beef consumption, by three pounds per capita between 2003 and 2005 (projected), to 67.9 pounds, has helped to cushion total U.S. export losses, and some foreign countries have begun to accept some U.S. beef.<sup>3</sup> Still, regaining the Japanese market is viewed by U.S. cattle producers and beef processors as critical to long-term economic health. Not only was Japan the leading market in volume; it also was a major buyer of products not as widely consumed in the United States like brains and other organs, all of which add value to each animal slaughtered. Moreover, as U.S. Secretary of Agriculture Johanns testified recently, “We are aware that the decision to resume trade in this market will set an important precedent for trade resumption in many other markets.”<sup>4</sup>

Cattle producers were losing about \$10 per cwt., or \$125 per head, due to lost access to the Japanese, Korean, and other Asian markets, Cattle-Fax, an industry analysis and reporting service, concluded in 2004. USDA estimated (April 2005) that U.S. beef and veal exports globally reached only 461 million pounds in 2004, or 18% of the 2003 level of 2.519 billion pounds, even with the partial reopening of Canada and Mexico. The department predicted that unless more markets reopen, exports would reach only 630 million pounds in 2005. Other countries, notably Australia and New Zealand, have filled U.S. lost market share in Japan. USDA’s Foreign Agricultural Service (FAS) concluded: “Australian grass-fed beef is not fully substitutable with U.S. grain-fed beef, and Australia’s grain-fed beef production cannot reach levels comparable to the United States due to grain supply constraints and limited feedlot capacity.”<sup>5</sup> Still, U.S. exporters are concerned that as long as U.S. beef is banned, these foreign competitors will expand their inroads, and that long-term Japanese tastes might trend toward less beef in their diets.

## 2004 Negotiations

Japan banned the importation of U.S. beef and related products on December 24, 2003. USDA and trade officials soon initiated discussions with the Japanese over terms for readmitting U.S. beef. Negotiations continued throughout 2004 and reached the highest levels when President Bush discussed the issue at the September 2004 summit with Japanese Prime Minister Koizumi; the President raised the issue again in a March 9, 2005, telephone call with him. Beef imports reportedly were a major topic, along with North Korea and China concerns, during Secretary of State Rice’s March 18-19, 2005, visit to Japan. (See CRS Issue Brief IB97004, *Japan-U.S. Relations: Issues for Congress*.)

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<sup>2</sup> USDA, APHIS, 65 *Federal Register* p. 43682, July 14, 2000; 66 *Federal Register* p. 52483, October 16, 2001. To date the Japanese have reported 16 cases of BSE in their cattle.

<sup>3</sup> For status of market openings, see [[http://www.aphis.usda.gov/lpa/issues/bse/bse\\_trade.html](http://www.aphis.usda.gov/lpa/issues/bse/bse_trade.html)].

<sup>4</sup> Testimony before the House Committee on Agriculture, March 1, 2005.

<sup>5</sup> USDA, FAS, *Livestock and Poultry: U.S. Markets and Trade*, October 2004.

Among a number of key differences in the talks was Japan's insistence that the United States adopt universal testing of all cattle, or at a minimum of those whose beef was destined for Japan. Japan had adopted this policy after it found BSE in its own cattle herds, among other measures aimed at dealing with the disease and reassuring consumers there, who are widely viewed as being extremely sensitive about food safety issues. While the Japanese considered 100% testing as a question of equivalency, the United States contended that it was not scientifically justifiable.

Japan claimed to have found BSE in its own cows as young as 21 months old. U.S. interests countered that current testing methods cannot confirm BSE in younger animals, and that 100% testing would provide false assurances that such meat is safe, and imply that untested meat might not be. Other U.S. regulatory measures offer more scientifically proven protections for cattle and humans, including a ban on feeding most cattle parts back to cattle, and the removal of brain, spinal tissue, and other higher-risk parts from cattle over the age of 30 months. Testing is appropriate for determining the extent, if any, of BSE in cattle herds for disease surveillance, not for assuring food safety, U.S. officials have maintained. Also, testing all 35 million U.S. cattle slaughtered annually would be economically prohibitive, they have argued.<sup>6</sup>

## October 2004 Joint Statement

On October 23, 2004, the United States and Japan announced jointly that they had reached agreement on a framework for resuming two-way beef trade. U.S. officials had characterized this statement as an accord that could lead to a resumption of U.S. exports within months if not weeks. The Japanese appeared to view the announcement more as a progress report. The joint statement included the following elements:

- Japanese beef would be permitted in the United States following relevant U.S. rulemaking procedures.
- The United States would establish, with Japanese concurrence, an interim marketing program that would enable a resumption of some U.S. exports to Japan, by certifying that all beef shipments are from cattle under 21 months old. The United States also would expand its definition of cattle parts having a higher risk of harboring BSE. These "specified risk materials" (SRMs) would include — for cattle of *all ages* — the entire head except tongues and cheek meat; tonsils; spinal cords; distal ileum; and part of the vertebral column. This is broader than the current U.S. SRM definition, which applies mainly to cattle over 30 months old.
- The two countries would evaluate this interim marketing program by July 2005, based in part on a scientific evaluation by international health experts, and modify it if appropriate.

The interim marketing arrangement was to be a modified version of the Beef Export Verification (BEV) Program established in 2003 by USDA's Agricultural Marketing Service (AMS). In August 2003 USDA officials announced that they would restart

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<sup>6</sup> USDA in 2004 denied permission to Creekstone Farms, a smaller specialty beef packer (and possibly other smaller firms), to conduct BSE tests on all cattle to meet Japanese demands. See CRS Report RL32414, *The Private Testing of Mad Cow Disease: Legal Issues*.

imports of specified low-risk beef products from Canada, which had reported its first case of BSE in a native cow in May 2003. To allay Japanese concerns that Canadian beef (banned in Japan) might enter with U.S. beef exported to Japan, U.S. officials agreed to what they described as a voluntary, fee-based marketing service to companies supplying beef to foreign buyers, including Japan. Under BEV, AMS would audit suppliers and document that their procedures could segregate U.S. from Canadian meat.<sup>7</sup>

According to some analysts, U.S. packers may have difficulty satisfying the Japanese criteria in the October 2004 statement, even though an estimated 70% to 80% of all the U.S. cattle killed yearly are believed to be under 21 months of age. The age of animals in the BEV program must be verifiable. Age records may only be available for anywhere from 10% to 25% of U.S. cattle, according to various estimates.<sup>8</sup> To address this problem, after a detailed U.S. study of the relationship between a cow's age and its physiological characteristics, U.S. and Japanese authorities agreed in early February 2005 on a method of evaluating carcass age through grading and quality attributes.<sup>9</sup>

## Current Situation

With agreement on cattle grades to verify age, all outstanding technical issues have been resolved, Agriculture Secretary Johanns has declared. Nonetheless, progress toward market reopening has proceeded far more slowly than USDA had indicated in October 2004. Most observers do not expect that U.S. beef will be eligible for the Japanese market until well into 2005 at the earliest — notwithstanding the fact that high-level Bush Administration officials and key members of Congress continue to press the issue with the Japanese. Several high-ranking Japanese officials have declined to provide a specific timetable, saying that they must explain proposed changes to consumers and follow specified rulemaking requirements. The October 2004 statement recognizes the necessity of these domestic rule procedures in both countries but also expects them to be “completed expeditiously” so that two-way beef trade can be resumed “immediately after completing their respective domestic procedures.”

Japan must complete two separate but related regulatory steps, according to USDA analysts and to trade reports. The first step requires approval of a change in Japan's domestic testing, from all cattle to only those over 20 months of age. The second step involves changing the ban on U.S. beef imports. Japan's independent Food Safety Commission (FSC) plays key roles in both of them.

The FSC in late March 2005 accepted a report by its special subcommittee on BSE stating that limiting testing to cattle over 20 months might result in only a negligible increase in food safety risk. The FSC in turn opened this decision to 30 days of public comment, through late April.<sup>10</sup> The FSC is then expected to vote in early May on formal

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<sup>7</sup> For details see [<http://www.ams.usda.gov/lsg/arc/bev.htm>]. The United States also has been working on a national animal identification system, which could be useful in verifying age, but it is not yet operational. See CRS Report RL32012, *Animal Identification and Meat Traceability*.

<sup>8</sup> See “Age Verification Will be Big Barrier,” *Cattle Buyers Weekly*, September 13, 2004.

<sup>9</sup> Technical information on this system is at [<http://www.ams.usda.gov/lsg/stand/Japan.htm>].

<sup>10</sup> This FSC action followed a five-month review of the risk of BSE in younger cattle in response  
(continued...)

approval of the recommendation, which then would be forwarded to Japan's Ministry of Agriculture, Forestry and Fisheries (MAFF), and Ministry of Health, Labor and Welfare (MHLW). Those ministries are expected to conduct two to three weeks of "town hall meetings" and consultation with Japan's ruling Liberal Democratic Party.

Draft regulations that actually would provide for U.S. beef imports will not be submitted to the FSC by the two ministries (MAFF and MHLW) until after the FSC makes its final recommendation to them on the domestic changes. The second FSC recommendation, on resuming U.S. imports, also will be subject to 30 days of public comment. After that, the FSC is to make its import recommendation to MAFF and MHLW, according to USDA.

There appear to be some uncertainties that make it difficult to plot a more precise timetable. For example, it is unclear how much time each of the agencies might take to consider comments received and make any modifications, although U.S. officials are expecting this will be short.<sup>11</sup> (Such uncertainty surrounding agency internal deliberations may be no different than that which occurs when U.S. agencies consider rule changes.) Nevertheless, the schedule as it is now understood suggests that U.S. beef might not be entering Japan before mid-summer at the earliest.

The United States, Canada, and Mexico on April 1, 2005, announced what they call a scientific, harmonized approach to BSE risk mitigation in North America that also will be presented to the World Organization for Animal Health (OIE for its French acronym), "to promote international harmonization of BSE risk mitigation" through the OIE." The proposed changes in OIE guidelines rely on scientific evidence arguing against testing cattle under 30 months old — yet the U.S.-Japan agreement calls for accepting beef only from those younger than 21 months old. (OIE guidelines are supposed to help determine an exporting country's BSE status and thus whether to accept its beef.)<sup>12</sup>

The October 2004 statement indicated that experts from the OIE and World Health Organization (WHO) would participate in a scientific review of the interim marketing program, after which the U.S. and Japanese governments would reach a consensus on making any changes in the program. This too would be subject to review by the Japanese FSC. Given that the interim marketing program has not yet started, it is difficult if not impossible to forecast when resumption of full beef trade with Japan might occur.

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<sup>10</sup> (...continued)

to a September 2004 FSC report, *Measures Against BSE in Japan (Interim Report)*. The report observed that testing methods had been unable to detect BSE in any Japanese cattle of 20 months or younger; a total of 3.5 million cattle had been tested. The same report concluded that because more than 99% of BSE infective material is found in SRM, their removal "is considered as an extremely effective measure to reduce the risk of BSE infection to humans."

<sup>11</sup> The preceding observations are based in part on personal communications with officials of USDA's Foreign Agricultural Service on April 7 and 13, 2005.

<sup>12</sup> On April 13, 2005, some news sources were reporting that the United States in fact had formally asked the FSC to adopt the 30-month (rather than the 21-month) cut-off. CRS did not immediately verify these reports. The USDA press release on the North American strategy paper can be accessed at [<http://www.aphis.usda.gov/lpa/issues/bse/bse.html>]. The annual General Session of the OIE International Committee will be held from May 22-27, 2005, in Paris.

## Activity During the 109<sup>th</sup> Congress

**Congress.** In the 109<sup>th</sup> Congress, key lawmakers have voiced increasing frustration with the slow pace of the Japanese deliberations. Reopening the Japanese market has been a recurring theme during hearings before various House and Senate committees. At a March 1, 2005, House Agriculture Committee hearing on BSE trade issues (primarily regarding Canada imports), the Secretary of Agriculture declared that the delays could further complicate relations between Japan and the United States. Following a meeting in early April with the Japanese Ambassador and more than 20 other House members, the Agriculture Committee chairman issued a statement echoing that warning.

Other individual and bipartisan groups of lawmakers have written to and/or met with the Japanese ambassador about their concerns. For example, 20 Senators, noting that Japan has a substantial trade surplus with the United States, warned in a February 18, 2005, letter to him that they might pursue economic retaliation.

Resolutions have been introduced expressing the sense of the House and Senate that if Japan continues to “delay meeting its obligations,” the United States Trade Representative (USTR) “should immediately impose retaliatory economic measures against Japan.” (H.Res. 137 was introduced on March 3 and S.Res. 87 on March 17, 2005). These resolutions would encourage rather than compel the Administration to act; however, if passed, they could increase political pressure on the White House. Other bills and resolutions also could be offered.

**Administration.** If the Administration were to seek retaliation, a likely venue would be the World Trade Organization (WTO). Dispute resolution there is carried out under the WTO Dispute Settlement Understanding (DSU), whose rules and procedures apply to virtually all WTO agreements. The DSU provides for consultations between disputing parties, panels and appeals, and possible compensation or retaliation if a defending party does not comply with an adverse WTO decision by a given date. Although the Administration said it continues to prefer negotiation over retaliation, it did express its “extraordinary concerns about Japan’s continuing restrictions” in a March 9, 2005, statement before the WTO Sanitary and Phytosanitary (SPS) Committee.<sup>13</sup> Also, USTR recently elevated the beef issue by including it for the first time in its annual 2005 *National Trade Estimate Report on Foreign Trade Barriers*.

WTO dispute resolution can be a lengthy process, and even a favorable decision may not result in a resumption of beef exports to Japan. For example, in the late 1990s the WTO permitted the United States to impose retaliatory tariffs on the European Union (EU) after agreeing that the EU’s ban on U.S. beef imports containing growth-promoting hormones was not scientifically based. Despite the retaliatory tariffs, the EU still has not lifted its ban.<sup>14</sup>

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<sup>13</sup> See [<http://tokyo.usembassy.gov/e/p/tp-20050309-77.html>].

<sup>14</sup> CRS Report RS20088, *Dispute Settlement in the World Trade Organization: An Overview*; and CRS Issue Brief IB21709, *U.S.-European Union Trade Relations: Issues and Policy Challenges*.