

**KOREA – MEASURES AFFECTING THE IMPORTATION OF BOVINE MEAT
AND MEAT PRODUCTS FROM CANADA**

Communication from Canada

The following communication, dated 4 July 2011, from the delegation of Canada to the Chairperson of the Dispute Settlement Body, is circulated at the request of this delegation.

On 28 June 2011 Canada requested that the panel in the above-referenced case suspend its proceedings in accordance with Article 12.12 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*. Earlier today the Panel agreed to do so.

Canada would be grateful if the attached communication that was sent from Canada to the Republic of Korea on 25 June 2011 in relation to that suspension could be circulated to the Dispute Settlement Body in conjunction with Canada's suspension request.

A copy of this letter is being sent directly to the Republic of Korea.

COMMUNICATION FROM CANADA TO THE REPUBLIC OF KOREA

25 June 2011

Re: Korea – Measures Affecting the Importation of Bovine Meat and Meat Products from Canada (DS391)

I am writing to confirm the following understanding on the issue of access to the Korean market for bovine meat from Canada:

- The Government of Canada and the Government of the Republic of Korea (hereinafter referred to as "Korea") have agreed to the draft Import Health Requirements for Canadian Beef, a copy of which is in Annex A (draft Import Health Requirements).
- Following the publication of the draft Import Health Requirements as an administrative notice in Korea's official Gazette, the Government of Canada will immediately request that the Panel suspend its proceedings in *Korea – Measures Affecting the Importation of Bovine Meat and Meat Products from Canada* (DS391) in accordance with Article 12.12 of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).
- The Government of the Republic of Korea will endeavour to undertake necessary actions in a timely manner to restore access to bovine meat from Canada. The Government of Canada expects that all necessary steps are completed in order to allow the importation of bovine meat from Canada into Korea and that such importation can take place by 31 December 2011.
- If, at any time during the suspension of the WTO panel proceedings, the Government of Canada considers that this understanding is not respected, the Government of Canada may advise the Panel to reinstate the proceedings. If Canada exercises this right, it will notify Korea without delay.
- When this understanding has been respected and that access to the Korean market for bovine meat from Canada has been effectively re-established, Canada will, prior to the expiration of the 12-month suspension period of the WTO proceedings, notify the Panel that the Parties have settled the matter in dispute and request that it issue a report confined to a brief description of the case and to reporting that a solution has been reached in *Korea – Measures Affecting the Importation of Bovine Meat and Meat Products from Canada* (DS391) in accordance with Article 12.7 of the DSU. Canada will then notify the Dispute Settlement Body and other relevant bodies of the WTO that a mutually agreed solution has been reached in accordance with Article 3.6 of the DSU.
- This understanding is without prejudice to the rights and obligations of Canada and Korea under the Marrakesh Agreement Establishing the World Trade Organization. Annex A is an integral part of this understanding.

I would be grateful if you would confirm that your Government agrees with the above.

Annex A

Import Health Requirements for Canadian Beef (Draft)

These requirements apply to the beef exported from Canada to the Republic of Korea (hereinafter referred to as "Korea").

Definitions

1. Definitions of the terms used in the import health requirements are as follows:
 - (1) "BSE" means Bovine Spongiform Encephalopathy.
 - (2) "Cattle" means domesticated bovine animals (*Bos taurus* and *Bos indicus*) that were born and raised in Canada or legally imported into Canada from a country deemed eligible by the Korean government to export beef to Korea.
 - (3) "Specified Risk Materials "(SRMs) means:
 - (a) tonsils and distal ileum from cattle of all ages; and
 - (b) brains, eyes, spinal cord, skull and vertebral column from cattle 30 months of age and over at the time of slaughter.
 - (4) "Beef for export" includes all edible parts including bones, which are produced out of cattle less than 30 months of age at the time of slaughter. However, "beef for export" excludes SRMs; brains, eyes, spinal cord, skull and vertebral column (excluding vertebrae of the tail, transverse processes of the thoracic and lumbar vertebrae and wings of the sacrum) of cattle less than 30 months of age at the time of slaughter; all mechanically recovered meat (MRM)/mechanically separated meat (MSM); advanced meat recovery products (AMR); intestines from duodenum to rectum; ground meat and processed beef products.
 - (5) "Food-safety hazard" means any biological, chemical or physical property that may cause food to be unfit for human consumption.
 - (6) "Serious non-compliance" means a food-safety hazard in a shipped product or a food-safety hazard found during a system audit.
 - (7) "Public health hazard" in Article 5 means incidents that pose a threat to health and safety of its people, such as any portion of the BSE positive cattle has entered the human food supply chain in Canada.

General Requirements

2. Prior to the loading of the beef, it is required that:
 - (a) Canada has been free from foot-and-mouth disease for the past 12 months, and has been free from rinderpest, contagious bovine pleuropneumonia, lumpy skin disease and Rift Valley fever for the past 24 months; and

- (b) Vaccination has not been carried out against the aforementioned diseases. Notwithstanding the above, in the event that the Korean government acknowledges that the Canadian government is conducting an effective stamping-out policy against the specific disease, the required period for recognizing Canada as being free of that disease might be shortened in accordance with the World Organization for Animal Health (OIE) guidelines after Korea conducts a risk analysis.

3. In the event that a disease set out in Article 2 occurs in Canada, the Canadian government must immediately suspend the exportation of beef to Korea and provide the Korean government with pertinent information. The Canadian government shall consult with the Korean government in advance when it wishes to resume the exportation of beef to Korea.

4. The Canadian government must continuously maintain measures to effectively detect and prevent the introduction and spread of BSE, including removal of SRM, feed ban and surveillance program in accordance with the laws and regulations of Canada. The Canadian government must inform the Korean government of any introduction, repeal or amendment of BSE-related measures or laws and regulations in advance.

5. In the event that (an) additional case(s) of BSE occur(s) in Canada, the Canadian government shall immediately inform the Korean government of the case(s), and provide relevant data and information, including relevant epidemiological information, while the Korean government, upon recognition of the additional case(s) of BSE in Canada, will suspend quarantine inspection on the imported beef from Canada, and after receiving information from the Canadian government, the Korean government will lift the quarantine suspension measure without delay when it determines that the beef for export does not pose a public health hazard to its people under the Contagious Animal Disease Prevention Act of Korea. If the Korean government determines that it does pose a public health hazard to its people, it can take measures to suspend the importation of the beef for exportation into Korea to protect health and safety of its people.

Requirements for Meat Establishments

6. Establishments (slaughterhouses, processing plants and storage facilities) shall be designated by the Canadian government as being eligible for producing beef for export to Korea, and such establishments shall be notified to the Korean government in advance, and approved by the Korean government through on-site inspections or other means.

7. The Canadian government shall maintain a regular monitoring and auditing program for meat establishments that produce beef for export to Korea to ensure they comply with this "Import Health Requirements for Canadian Beef" and Canadian regulations. In the event of a serious non-compliance against the import health requirements has been found as a result of such program, the Canadian government shall immediately suspend the issuance of export certificates for beef of the relevant establishment, and inform the Korean government of reasons and relevant information regarding the matter. Only when the Canadian government determines that the corrective actions are adequate will production be allowed to resume. After completion of the corrective actions by the relevant establishment, the Canadian government will inform this to the Korean government.

8. The Korean government can conduct on-site inspections and investigate the original records on the establishment for export to Korea, and can take measures including suspension of the export of the establishment if serious non-compliance with this "Import Health Requirements for Canadian Beef" is found. When the Canadian government informs the Korean government of the completion of the corrective actions for the non-compliance of the relevant establishment, the Korean government confirms whether the corrective actions were taken appropriately through on-site inspection or other means. When the Korean government determines that the result of corrective actions is adequate, the

Korean government can lift the suspension of exportation. The Korean government can rescind the approval of the establishment concerned if repetitive incidents of serious non-compliance are identified.

9. Establishments that produce beef for export to Korea shall have in place and operate proper sanitation control programs that include the determination of age, removal of SRM, identification of carcass and offal eligible for export and removal of ineligible parts for export.

Requirements for Beef

10. Cattle to produce beef for export (hereinafter referred to as "slaughtered cattle") must not be suspected or confirmed BSE cases, or confirmed progenies or cohorts of BSE cases.

11. The age of cattle at the time of slaughter must be verified to be less than 30 months of age by the documentation authorized by the Canadian government. However, in the event that the identification is not available by the documentation, dentition shall be used to verify the age of cattle.

12. The beef for export shall be derived from cattle that were slaughtered in meat establishments which are approved by the Korean government and that passed ante- and post-mortem inspection conducted by CFIA inspector under the supervision of the resident official veterinarian from the Canadian government.

13. The beef for export shall be derived from cattle that were not subjected to a stunning process prior to slaughter, with a device injecting compressed air or gas into the cranial cavity or to a pithing process.

14. The beef for export shall be produced and handled in a manner which ensures that it does not contain and is not contaminated with SRM, mechanically recovered meat/mechanically separated meat (MRM/MSM), and advanced meat recovery product (AMR).

15. The beef for export must not contain residues posing a public health hazard (radioactivity, synthetic antibiotic substances, antibiotic substances, heavy metals, pesticides, hormones, etc.) and pathogenic microorganisms in quantities exceeding the tolerance levels established by the Korean government and when the beef for export is treated with ionizing radiation, ultraviolet rays and tenderizer, it shall follow the Korean regulation.

16. The beef for export must be packaged with clean and sanitary material.

17. Production, storage and transportation of the beef for export must be handled in such a manner as to prevent contamination by communicable animal disease pathogens.

18. Refrigerator or cold storage rooms on a vessel (aircraft) or container that transports the beef must be sealed by using the seal of the Canadian government or the Canadian government-authorized seal. An official veterinarian of the Canadian government must verify this and issue a health certificate.

19. The Canadian government shall issue the export health certificate that contains the following information in detail and submit it to the quarantine authority of the Korean government:

- (1) Information required in the Article 2 and 9-18 above;
- (2) Name of the product (including species), number of packages, and weight (N/W) listed by each final processing plant;

- (3) Names, addresses and approval numbers of the slaughterhouse, processing plant and storage facility;
- (4) Slaughtering period and/or processing period;
- (5) Container number and seal number;
- (6) Name of the vessel (aircraft), date of shipment, name of shipping port;
- (7) Addresses and names of the consignor and the consignee;
- (8) Date of issue of the health certificate, name and signature of the issuer and the organization to which he/she belongs.

20. In the event that non-compliance with these import health requirements is found during the quarantine inspection of beef for export conducted by the Korean government, the Korean government can take the following measures:

- (1) The Korean government may return the beef for export to its origin or destroy it if any discrepancy against the health requirements of Korea is found.
- (2) In the case that any SRM is found or any residue designated by Korean government is detected during quarantine inspection, the Korean government can take a measure to suspend the exportation from the relevant establishment, and in that case the Korean government can lift the export restriction through on-site inspections or other means after it is informed by the Canadian government that the corrective actions for the establishment are completed.
- (3) In the case of serious non-compliance with import health requirements, the Korean government will conduct at least 5 consecutive inspections (on the quantity totaling at least 5 times of the quantity of non-compliance) for the beef for export produced in the same establishment. If no additional non-compliance is detected after the increased inspection, the Korean government will return to its normal track;
- (4) If the two cases of serious non-compliance are found in the beef for export produced in the same establishment, the Korean government can suspend the exportation from the relevant establishment until the corrective actions are completed. In this case, the Korean government can lift the suspension through on-site inspections or other means after it is informed by the Canadian government that the corrective actions are completed; and
- (5) In the event of the suspension of the exportation against an establishment, products certified prior to the date of suspension will continue to be eligible for import quarantine inspection.

21. A system-wide failure, such as repetitive incidents of serious non-compliance, may result in the suspension of the import health requirements.

Addendum

1. This notice will go into effect on the date of its notification.
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