

JAPAN – IMPORT QUOTAS ON DRIED LAVER AND SEASONED LAVER

Request for the Establishment of a Panel by Korea

The following communication, dated 4 February 2005, from the delegation of Korea to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 1 December 2004, the Government of the Republic of Korea requested consultations with the Government of Japan pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXIII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 19 of the Agreement on Agriculture, and Article 6 of the Agreement on Import Licensing Procedures (Licensing Agreement) regarding Japan's import quotas on dried laver (1212.20-1-(1)) and seasoned laver (2106.90-2-(2)-E-(b)). Korea and Japan held consultations on 23 December 2004 and 21 January 2005, but these consultations have failed to resolve the dispute.

Japan's import restrictions on dried laver and seasoned laver pre-date Japan's accession to the GATT almost 50 years ago. The Republic of Korea believes that these measures are inconsistent with Japan's obligations under Article XI of the GATT 1994, as the quotas constitute restrictions other than duties, taxes or other charges on the importation of laver. Korea also believes that these measures are inconsistent with Article 4.2 of the Agreement on Agriculture, as the quotas constitute the maintenance of measures of the kind which have been required to be converted into ordinary customs duties.

Korea also believes that the manner of administration of these quotas is partial and unreasonable, and thus is inconsistent with Japan's obligations under Article X:3(a) of the GATT 1994, as significant portions of quotas that considerably restrict market access for imports are allocated to associations of domestic producers.

Finally, these quotas are also inconsistent with Articles 1.2 of the Licensing Agreement, because they are import licensing regimes that are not in conformity with the provisions of the GATT 1994 cited above, and are not applied with a view to preventing trade distortions. Specifically, given the special characteristics of laver production, Japan's annual announcement of allocations under the quotas is issued at a time that prevents Korean producers from taking advantage of the limited market access allowed under the quota regime. Similarly, these quotas are inconsistent with Article 1.6 of the Licensing Agreement, because the application procedures and periods are not reasonable.

Accordingly, Korea respectfully asks the Dispute Settlement Body to establish a panel pursuant to Article 6 of the DSU, Article XXIII:2 of the GATT 1994, Article 19 of the Agreement on Agriculture, and Article 6 of the Licensing Agreement, with standard terms of reference as set out in Article 7.1 of the DSU. Korea further requests that this request be placed on the agenda for the meeting of the Dispute Settlement Body on 17 February 2005.
