

**KOREA – MEASURES AFFECTING IMPORTS OF FRESH,
CHILLED AND FROZEN BEEF**

Request for the Establishment of a Panel by the United States

The following communication, dated 15 April 1999, from the Permanent Mission of the United States to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

The Government of Korea maintains several measures relating to imported beef that appear to be inconsistent with Korea's obligations under the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement). The measures in question include Korea's Livestock Act, the Customs Duties Act, the Foreign Trade Act, the Act on Distribution and Price Stabilization of Agricultural and Fishery Products, the International Trade Act, and associated decrees, regulations, and notifications implementing those acts, including the Regulations Concerning Sales of Imported Beef, the Operational Guidelines for Imported Beef and the Simultaneous Buy/Sell (SBS) System, the Guidelines Concerning Registration and Operation of Specialized Imported Beef Stores, Notification and Operation Procedures for Imported Red Meat Stores, the Livestock Products Marketing Organization (LPMO) Notice No. 217 and Ministry of Agriculture and Forestry (MAF) Notice 98-40.

The way in which these measures contravene the WTO Agreement include the fact that Korea has instituted a retail distribution system that discriminates against imports of U.S. beef by requiring that it be sold through restrictive distribution channels and only in specialized import stores. Korea applies requirements to the sale of U.S. beef that do not apply to the like domestic product. Stores selling U.S. beef are prohibited from selling Korean beef and are subject to regulatory requirements from which the stores selling domestic beef are exempt.

Korea also impedes sales of U.S. beef in other ways. Korea imposes a "markup" on imports of U.S. beef that is not provided for in its schedule of concessions. The markup was 40 per cent as recently as 1997, and equalled 20 per cent in 1998.

Korea also administers its import regime in a restrictive manner that aggravates the existing quota. By restricting the entities that may import U.S. beef, Korea has introduced an additional constraint on imports. Furthermore, Korea has withheld quota allocations, significantly delayed the opening of tenders, established minimum import prices, manipulated the volume of imported beef allowed to go to market and denied import approvals. These measures resulted in a serious and substantial under-filling of the beef import quota.

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At the same time, Korea has increased the level of domestic support for its cattle industry to the point that the total domestic support provided by Korea exceeds its Aggregate Measurement of Support (AMS) under the Agreement on Agriculture.

Korea's measures appear to be inconsistent with the obligations of Korea under the General Agreement on Tariffs and Trade 1994 (GATT 1994), the Agreement on Agriculture, and the Agreement on Import Licensing Procedures. In particular, the United States considers that Korea's measures are inconsistent with the obligations of Korea under:

- (1) Articles II, III, X, XI, and XVII of the GATT 1994,
- (2) Articles 3, 4, 6, and 7 of the Agreement on Agriculture, and
- (3) Articles 1 and 3 of the Agreement on Import Licensing Procedures.

On 1 February 1999, the United States Government requested consultations with the Government of Korea pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXII:1 of the GATT 1994, Article 19 of the Agreement on Agriculture, and Article 6 of the Agreement on Import Licensing Procedures (WT/DS161/1). The governments of Australia, Canada and New Zealand joined the consultations, which were held on 11 and 12 March 1999. The consultations, however, failed to settle the dispute.

Accordingly, the United States respectfully requests the Dispute Settlement Body to establish a panel with standard terms of reference as set out in Article 7 of the DSU. The United States further asks that this request for a panel be placed on the agenda for the next meeting of the Dispute Settlement Body to be held on 28 April 1999.
