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KOREA - MEASURES CONCERNING THE SHELF-LIFE OF PRODUCTS

Notification of Mutually Agreed Solution

The following communication, dated 20 July 1995, from the United States and the Republic of Korea is circulated pursuant to Article 3:6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

The Governments of the Republic of Korea and the United States of America wish to notify the Dispute Settlement Body that they have reached a mutually satisfactory solution, with respect to the products referenced in the attached annexes, to the matter raised by the Government of the United States in WT/DS5/1, dated 5 May 1995.

The agreement is set forth in the attached annexes. The treatment accorded in the annexes to imported products shall be no less favourable than the treatment accorded to like products of national origin or to like products of any other country.

This agreement is without prejudice to the rights or obligations of either Member under the Agreement Establishing the World Trade Organization.

ANNEX I

Shelf Life

I With respect to imports into Korea:

1. Vacuum-packed chilled beef and pork

- (a) Effective July 1, 1996, the shelf life of vacuum-packed chilled beef or pork described in HS headings 02.01 (.10, .20, .30) and 02.03 (.11, .12, .19) shall be determined by the manufacturer of the beef or pork.
- (b) During the period October 1, 1995, through June 30, 1996, the shelf life specified by the Government of Korea for vacuum-packed chilled beef or pork described in HS headings 02.01 (.10, .20, .30) and 02.03 (.11, .12, .19) shall be:
 - (i) 90 days for beef, and
 - (ii) 45 days for pork.

2. Frozen meat

- (a) Effective July 1, 1996, the shelf life of any frozen meat shall be determined by the manufacturer of the meat.
- (b) During the period October 1, 1995, through June 30, 1996, the shelf life specified by the Government of Korea for frozen meat shall be:
 - (i) 3 months for sausages and minced meat described in HS headings 16.01.00 and 16.02 (.10, .20, .31, .41, .42, .49, .50, .90);
 - (ii) 9 months for pork and poultry described in HS headings 02.03 (.21, .22, .29) and 02.07 (.21, .22, .23, .41, .42, .43, .50); and
 - (iii) 12 months for beef described in HS headings 02.02 (.10, .20, .30).

3. Other frozen foods

- (a) Effective July 1, 1996, the shelf life of any frozen food described in the following HS headings, other than a food referred to in paragraph 2, shall be determined by the manufacturer of the food:
 - 03.06 (.11, .12, .13, .14, .19)
 - 04.06 (.10, .30, .90)
 - 04.08 (.19, .99)
 - 07.10 (.10, .21, .22, .29, .30, .40, .80, .90)
 - 08.11 (.10, .20, .90)

16.04 (.11, .12, .13, .14, .15, .16, .19, .20, .30)
16.05 (.10, .20, .30, .40, .90)
19.05 (.10, .20, .30, .40, .90)
20.02 (.10, .90)
20.04 (.10, .90)
20.08 (.11, .19, .20, .30, .40, .50, .60, .70, .80, .91, .92, .99)
20.09 (.11, .20, .30, .40, .50, .60, .70, .80, .90)

- (b) During the period October 1, 1995, through June 30, 1996, the shelf life specified by the Government of Korea for any frozen food described in the following HS headings, other than a food referred to in paragraph 2, shall be 9 months:

03.06 (.11, .12, .13, .14, .19)
04.06 (.10, .30, .90)
04.08 (.19, .99)
07.10 (.10, .21, .22, .29, .30, .40, .80, .90)
08.11 (.10, .20, .90)
16.04 (.11, .12, .13, .14, .15, .16, .19, .20, .30)
16.05 (.10, .20, .30, .40, .90)
19.09 (.10, .20, .30, .40, .90)
20.02 (.10, .90)
20.04 (.10, .90)
20.08 (.11, .19, .20, .30, .40, .50, .60, .70, .80, .91, .92, .99)
20.09 (.11, .20, .30, .40, .50, .60, .70, .80, .90)

4. Other foods

Effective October 1, 1995, the shelf life for dried, packaged, canned or bottled products, other than those foods specified in paragraphs 1 through 3, shall be determined by the manufacturer of the product.

II. In general:

1. Storage Temperature

- (a) Effective July 1, 1996; the storage temperature of a product subject to a shelf life requirement by the Korean Food Code shall be determined by the manufacturer of the product when such a shelf-life requirement is removed.
- (b) During the period October 1, 1995, through June 30, 1996, the Government of Korea shall ensure that it will not abuse the current requirements for storage temperature of any product in the Korean Food Code for the purpose of restricting trade.

2. References to Harmonized System headings and subheadings

Beginning October 1, 1995, the Government of Korea shall notify other members of the World Trade Organization (WTO), through the WTO Secretariat, the corresponding Harmonized System tariff heading or subheading for each item subject to a shelf life requirement in the Korean Food Code or successor measure, or for which such a shelf-life requirement is removed or proposed to be removed. The subheading shall be at least at the 6-digit level, if one exists under the Harmonized System, otherwise it shall be at the 4-digit level.

3. Implementation

The Government of Korea shall not take measures that have the effect of, directly or indirectly, requiring or encouraging local governments or non-governmental entities within its territory to act in a manner inconsistent with the provisions of this Annex.

4. Definitions

As used in this annex:

- (a) "chilled" means at a temperature from -2 C to 0 C and not previously frozen as well as currently in a unfrozen state;
- (b) "frozen poultry" included all prepared products of poultry;
- (c) "HS" means Harmonized System;
- (d) "include" means include but is not limited to;
- (e) "meat" includes beef, pork and poultry and all their prepared products; and
- f) "shelf life" of a product means the period between the date of manufacture of the product and the date by which a product must be sold at the retail level.

ANNEX II

Other Measures Concerning Meat

1. Residue tolerances

No later than July 1, 1996, the Government of Korea shall ensure that any maximum residue level it maintains for imported excretory organ meats is consistent with the international standards established by the CODEX Alimentarius Commission.

2. Pork chilling

The Government of Korea shall extend the chilling period for pork from the current 24 hours to 48 hours.

3. Tendering procedures

The Government of Korea shall provide at least 7 days advance notice prior to offering a tender for the purchase of pork and shall provide a period of at least 30 days for arrival of the product to fulfil the contract. Shorter tender and arrival periods are permissible only in the case of large-scale supply disruption resulting from natural disaster.