

WORLD TRADE ORGANIZATION

RESTRICTED

G/SPS/W/41

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Committee on Sanitary and Phytosanitary Measures

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STATEMENT MADE BY THE UNITED STATES AT THE MEETING OF 15-16 NOVEMBER 1995

You will recall that at the last meeting we informed the Committee of our consultations with the Government of the Republic of Korea under Article 4 of the Dispute Settlement Understanding with regard to government mandated shelf-life. The US delegation wishes to express its serious concern that the Korean Government is not implementing the 20 July US-Korea settlement on shelf life, which was notified to the Dispute Settlement Body (WT/DS5/5) and the SPS Committee (G/SPS/W/27) in July. This is based on deficiencies in the 12 October 1995 notification of Korea to the SPS Committee (G/SPS/W/27/Add.1) and in the failure of the Korean Government to take the actions required under the settlement by the 1 October deadline specified in the settlement.

The 20 July settlement obligated Korea to notify the WTO beginning 1 October of all corresponding six-digit HS numbers (or four-digit in the event a six-digit number does not exist) for each item subject to a shelf-life requirement, or for which a shelf-life requirement is removed or proposed to be removed. Korea has failed to do this.

Instead, in its 12 October SPS notification, Korea states that the HS numbers in the notification are only for reference, and that the measures described in the notification do not necessarily apply to all products included in the HS headings.

This is not the understanding of the United States of what Korea agreed to do in the settlement. The United States and Korea negotiated six-digit HS numbers in the 20 July settlement precisely to avoid any misunderstanding as to the coverage of the settlement. The coverage of the measures to be taken by Korea should be no less than the coverage of the HS numbers specified in the settlement.

The 20 July settlement obligates Korea to allow manufacturers to determine shelf-life requirements for all shelf-stable products, including canned, dried, packaged and bottled products. According to Korea's notification, Korea has failed to do this.

Finally, the Korean Government has indicated in its notification that the products have to comply with the Korean Food Code even if they are specifically listed in the settlement, thus giving the Korean Food Code precedence over the settlement. In our view, this could nullify the entire settlement.

The inadequate notification coupled with Korea's unilateral interpretation of the meaning of the settlement agreement, are extremely troubling. We have heard conflicting reports from Korea as to the meaning of the notification and whether it is in fact intended to be inconsistent with the settlement.

We urge the Korean Government to promptly clarify and correct its October notification. We also urge the Korean Government promptly to take and notify the rest of the actions it was required to have taken by 1 October 1995.