

STATEMENT MADE BY THE UNITED STATES
AT THE MEETING OF 29-30 MAY 1996

Korea's unscientific import clearance measures and practices

The United States requested this agenda item in order to raise our serious concerns regarding Korea's import clearance measures and practices, which we believe are not based on science and are in fact designed to slow or effectively prohibit food and agricultural imports.

The problem is significant.

Surveys of other US trading partners in Asia indicate that import clearance for most agriculture products requires on average two to five days. The lone exception is Korea, where import clearance typically takes two to four weeks on average, and frequently up to three months.

Korea is our third largest market for agricultural products. The market for U.S. and other countries' products could be even more significant if Korea simply conformed its inspection regime to international standards.

There is a long history of never-ending consultations, without progress.

The United States has been raising its concerns with Korea for a number of years, ranging from the highest political levels to regular and frequent technical working level meetings. We have also provided technical assistance and field experience to many Korean officials.

Contrary to Korean Government assertions, our analysis shows that the delays at Korean ports have nothing to do with automation of clearance procedures, as sometimes asserted by Korean officials. Rather, it is Korea's refusal to follow international standards and practices that is the main problem.

Given the lack of progress in bilateral talks, in April of 1995 we initiated Article XXII consultations with Korea. In our second round of consultations held in June 1995, Korea indicated that it would be introducing a number of reforms and presented the US delegation with a written implementation plan to be completed by March 1996.

The United States held another round of talks in Washington in April 1996 for the purpose of reviewing the nature of the measures implemented and notified to this Committee. At Korea's request, this meeting was scheduled to follow their National Assembly elections.

- We learned that Korea had not implemented the promised reforms, or had simply replaced one barrier with another.
- We also discovered that most of what was contained in Korea's notifications to this Committee throughout 1995 had not been implemented, and some were in fact not even under consideration.

Further, these unscientific measures are implemented through what is called "internal guidance", information for Korean agencies which is not available to the public and which often allows for great discretion on the part of working level inspectors. The inspectors appear to decide at a whim whether an import has met unspecified requirements.

Exporters also have no right to appeal or to avail themselves of due process, except through Korean importers. Unfortunately, many Korean importers are reluctant to challenge rulings announced by government inspectors. When they have, they are often targeted for harassment by anti-import groups.

As a consequence, the United States on 24 May 1996 submitted its request for consultations under Article XXIII of the Dispute Settlement Understanding. The new request reflects technical changes to the Korean Food Sanitation Act. At this time, it appears likely that we will have no choice but to request a panel.

The Korean measures which are of greatest concern to the United States are the following:

- **Sampling Practices:** Korea inspects and tests every shipment of imported agricultural and food products for either chemical residues, pests or both. This is probably the greatest factor in delays at the port.

Korea's own historical data shows that it tests more than three times the number of samples of imported food products relative to the number of lab samples of domestic product, while it finds only 0.9 per cent violations for imports compared to 1.5-3.0 per cent for domestic product. Korea has not been able to provide a risk assessment or any other rationale to justify this practice.

- **Mandatory Fumigation for Cosmopolitan Pests:** Korea subjects all fruit to expensive and time-consuming fumigation for insects already found and not controlled in Korea.

Korea has not yet adopted the International Plant Protection Convention (IPPC) definition of "quarantine pest", but has indicated that when it does so, the presence of some non-quarantine pests will continue to justify this fumigation requirement. Again, Korean officials indicated during our consultations that it had not performed a risk assessment of any kind.

- **Mandatory Sorting of Decayed Produce:** The Government of Korea requires that every shipment of imported fresh produce be inspected for spoilage, then unpacked, sorted and repacked to remove any such product before clearing the port, and despite commonly accepted commercial tolerances that are specified in buyer-seller contracts. This requirement is costly, results in further decay, and adds about ten days to import clearance. At our April 1996 talks, Korean officials informed us that this measure will be dropped from the port clearance process, but will continue to be enforced prior to distribution by the importer because it is necessary to protect consumer's health. Korea has not performed a risk assessment nor does it enforce similar measures for domestic product.

- **Mandatory Incubation Testing:** Korea requires that every shipment of California fruit (which has been transported in cold-storage) be subjected to an incubation test to detect the Mediterranean fruit fly. This process adds 3-4 days to import clearance. Korean officials have acknowledged that: (a) they do not recognize certification that the fruit is from a pest-free area; (b) they have never encountered a single violation in California fruit since it started the test in 1991; and (c) Korea has never performed a risk assessment.

- **Food Standards:** To determine the safety of imported foods not covered under existing Korean food standards, Korea has replaced one unscientific measure (the so-called "self-specification" system) with another set of standards that are equally questionable on a scientific basis, and are used to prevent imports. For example, a shipment of hard candies was recently rejected on the basis of a food additive for which Korea had not performed a risk assessment but which has been positively affirmed by the United States and other countries as being so safe that no tolerance limits are even necessary.

In addition, the new Korean FDA requires a 100 per cent ingredient listing for each product. This was an important element of the "self-specification" requirement which Korea has notified this body as being "abolished". Not only is there no scientific justification for this requirement, but it is also often of a proprietary nature and which Korean officials share with competitors.

To summarize, the United States believes that Korea continues to maintain a number of measures and practices which are not based on science, which do not conform to international practice or standards, and which are deliberately employed to discourage imported food and agricultural products.