

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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Committee on Technical Barriers to Trade

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**STATEMENT BY THE REPRESENTATIVE OF THE REPUBLIC OF KOREA
AT THE COMMITTEE MEETING ON 2 NOVEMBER 1993**

1. Since the last meeting of this Committee, my delegation has examined very carefully the various issues that have been raised in relation to the adoption by my government of a system requiring that certain imported products must bear marks indicating the countries in which they originate. It is our considered view that Korea's Mark of Origin System, whose basic objective is to protect consumers from false or deceitful declarations on the origin of imported goods, has to be examined in the light of the provisions of Article IX of the General Agreement and the Recommendations adopted by the CONTRACTING PARTIES in 1958, and not in light of the provisions relating to "marking" in the Agreement on Technical Barriers to Trade. We also consider that these marking requirements are in full conformity with Article IX as elaborated by the 1958 Recommendation.

2. That the provisions of the Agreement on Technical Barriers to Trade would not apply to marking regulations whose primary objective is to require imports to indicate the countries in which the imported goods originated and not the physical characteristics, quality or performance of the imported product is clear from the very definition of "technical regulation" and "marking" in the Agreement itself. The definition states - and I am reading here from the relevant text:

Technical regulation is a specification contained in a document which lays down characteristics of a product such as levels of quality, performance, safety or dimensions. It may include - i.e. such specification may include inter alia marking or labelling requirements as they apply to products.

3. It follows from the definition that marking requirements adopted for the purpose of indicating the origin of imported goods are not technical regulations and therefore do not fall within the purview of the Agreement on Technical Barriers to Trade.

The need to examine the consistency of marking requirements under GATT law according to the purpose for which they have been adopted was also emphasized by the recent Panel Report on the complaint by Mexico against the US Restrictions on Imports of Tuna. The Panel observed that the labelling or marking requirements under the US Consumer Protection Information Act whose main purpose was to indicate to the consumer that tuna was produced in a dolphin friendly way, did not fall within the purview of Article IX. In particular, the Panel noted that the title of Article IX is "Marks of Origin". Its text therefore covers only marks of origin of imported products. It also noted that the Article does not contain a national treatment, but only a most favoured nation requirement, which indicates that its provisions are intended to be applied to marking requirements relating to the origin of imported products and are not relevant where marking requirements are applied to both imported and domestically produced products to indicate to the consumers their quality.

4. It is evident from this legal situation that the Korean Mark of Origin System has to be examined in light of the provisions of Article IX as elaborated by the 1958 Recommendation, and not in light

of the provisions of the Agreement on Technical Barriers to Trade. Right from the beginning of the discussions on this matter in this Committee, we expressed doubts as to whether the provisions of the TBT Agreement were applicable to the Korean system. These considerations made us submit to the Committee the details of the system on an informal basis and not to notify them formally.

5. Mr. Chairman, it is now our firm view that, in light of what we have stated, it would not be desirable to pursue discussion on this matter in this Committee, as the provisions of the Agreement on TBT are clearly not applicable. It is further our view that the Korean Mark of Origin System, which has been introduced to protect consumers against false declarations of the origin of imported goods is in full conformity with Article IX and the 1958 Recommendations. If, however, any exporting country considers that it is encountering practical difficulties in complying with marking requirements in relation to certain products which it is exporting to Korea, my delegation is ready to discuss these matters on a bilateral basis in accordance with the provisions of Paragraph 16 of the 1958 Recommendation, with a view "to securing removal of the difficulties encountered by it".