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Folder Title:

Korea December, 1993: Vol. 1 [4]

Staff Office-Individual:

International Economic Affairs-Whyman, William

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	To President William J. Clinton from President Kim Young-sam. [English translation] (2 pages)	12/01/1993	P1/b(1)
002. cable	re: DEC Approaching the investment issue. (1 page)	12/03/1993	P1/b(1)
003. cable	re: Labor Minister Outlines Progressive Labor Policy. (4 pages)	11/27/1993	P1/b(1)
004a. cable	re: Ambassador Sun Meeting with EB Assitant Secretary Tarullo. (1 page)	12/01/1993	P1/b(1)
004b. cable	re: Courtesy Call. (1 page)	11/30/1993	P1/b(1)
004c. cable	re: Further Thoughts on Korea's Membership in the OECD. (2 pages)	12/03/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
International Economic Affairs (William Whyman)
OA/Box Number: 121

FOLDER TITLE:

Korea December, 1993: Vol. 1 [4]

2009-0528-F

vz1533

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or
financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President
and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of
personal privacy [(a)(6) of the PRA]

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PRM. Personal record misfile defined in accordance with 44 U.S.C.
2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of
an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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information [(b)(4) of the FOIA]
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personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement
purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of
financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information
concerning wells [(b)(9) of the FOIA]

Bureau of East Asian and Pacific Affairs
Office of Korean Affairs
Phone: 647-7717 fax: 647-7388

Date: January 12, 1994

TO:	Name	Agency	Fax	Phone
	Glen Halm	Labor	219-5613	219-8838
	Harvey Himberg	OPIC	408-9859	336-8614
	Aldon Irons	S/IL		
	Bruce Malkin	EAP/RA		

INFO:

Peter Collins	USTR	395-3512	395-6818
Jeff Donius	USDOC/ITA	482-4453	482-4390
MBrettschneider	Treasury	622-0349	622-0335
Stuart Chemtob	Justice	514-2523	514-4508
<u>William Whyman</u>	NSC	395-1590	395-3543
Alan Hemphill	Agriculture	690-1093	720-2258
Allen Kent	Customs	927-6892	927-0527
Richard Morford	EB	647-5713	647-1326
Ann Derse	E	647-9763	647-9038

FROM: James P. Zumwalt

Subject: Dialogue for Economic Cooperation and Labor Policy Issues

The Korean Government proposed that the USC and ROKG hold a meeting to discuss Labor Policy Issues in Washington during the first half of February under auspices of the Dialogue for Economic Cooperation. Attached is the draft agenda that the ROKG proposed. Bill Heidt, who is presently in Seoul, will get back to you early next week on how we should handle the meeting.

For info addressees: Please let Jim Zumwalt know by Friday if you are interested in participating any DEC-related discussions on labor issues.

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UEC/Labor Group

1. Objectives

Labor issues are coming to the forefront of international economic relations with increasing frequency, and Korea-U.S. economic relations are no exception.

Concerns were expressed in the United States about the alleged lack of progress in labor rights in Korea. Labor disputes in Korea are cited as one of the primary elements that discourage foreign investment in Korea. Some hard-fought labor disputes at foreign-invested firms have presented an awkward situation for the authorities of both countries.

Notwithstanding the importance of labor issues in our bilateral economic relations, efforts to enhance bilateral cooperation in this area have suffered from the absence of a standing channel of consultation. Establishing a counterparts group on labor issues will be a useful step toward filling this institutional void.

For the immediate future, the labor group can focus on two areas -- finding mutually agreeable solutions to issues of mutual concern and facilitating technical cooperation.

2. Proposed Agenda

A. Discussion on Issues of Mutual Concern

a. Improvement of Labor Relations at Foreign-Invested Firms in Korea

b. Suspension of OPIC Program in Korea

B. Technical Cooperation (Exchange of Experiences & Information)

a. Labor Policy in General

- o labor relations
- o wage policy
- o labor legislation
- o employment / recruitment service

b. Safety and Health

- o prevention of workplace accidents
- o occupational disease
- o working environment and human engineering

3-2

PHOTOCOPY
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c. Welfare and Benefits

d. Vocational Training

- o policy and system
- o on-the-job training and retraining
- o vocational rehabilitation for the handicapped

e. Labor Statistics and Analysis of Labor Market

3-3

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NSC/RMO PROFILE

RECORD ID: 9309617
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TO: PRESIDENT

FROM: KIM YOUNG SAM

DOC DATE: 01 DEC 93
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KEYWORDS: KOREA SOUTH
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White House Guidelines, September 11, 2006
By VZ NARA, Date 7/16/2012
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S/S 9328094

United States Department of State

Washington, D.C. 20520

9617

December 7, 1993

MEMORANDUM FOR: Mr. William Itoh
Executive Secretary
National Security Council Staff
The White House

SUBJECT: Alerting NSCS on Presidential
Correspondence

Enclosed is the original of a letter to President Clinton from South Korean President Kim Young Sam which is transmitted for your information.

This correspondence was received in the Information Resources Management Section of the Executive Secretariat on December 7, 1993. A copy has been assigned to the appropriate bureau for action.

Clark W. Alexander
for Chief, S/S-IRM/RMD
Information Resources Management Section
Records Management Division
Executive Secretariat
647-2991

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U.S. - Korea Dialogue for Economic Cooperation
Interagency Meeting
December 3, 1993, 11:00 AM, Room 6210

Preliminary Agenda

- I. Introduction (State)
- II. Taxation (Treasury)
- III. Competition Policy (Justice)
 - 1. premium restrictio
 - 2. WRA. contract notifi-ation
 - 3. exceptions on cartel practices
 - 4. restrictive practices ag. import.
- IV. Administrative Procedures (State)
 - Need to propose date.
- V. Investment
 - a. Organization (State/Morford)
 - b. Priority List (USTR)
 - c. Procedures/Environment (State/Zumwalt)
- VI. Financial Issues/Banking Supervision (Treasury)
 - FPI - next time / Huntzell, Corp. f. C. want to Secur
- VII. Import Clearance (Customs) - A (un Humphill)
 - Met. Nov. 1
 - Automation
 - Ombudsman?
 - Need CPB, MRA involved.
- VIII. Standards (USDA)
 -
- IX. Industrial Cooperation (Commerce)
- X. Science & Technology (State/OES)
- XI. Labor/Social Security (State)

- 3rd Plenary Delayed until Feb. after JA.

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DEC Approach on Investment

Unlike other areas such as administrative practices, customs or taxation where a group of experts is meeting directly to discuss and resolve issues, Assistant Secretary Tarullo and Assistant Minister Sun agreed to hold investment discussions in the plenary meetings of the DEC. Our principal motivation is to hold discussions with a full interagency team, not just the hardline Ministry of Finance. This approach, however, does require careful management in order to accomplish our objective of significant opening of the Korean investment regime and a visible improvement in the investment climate.

There are two possible approaches that the DEC could pursue -- an Ad hoc, practical method, or a comprehensive method that combines both a theoretical and practical discussions.

Using the Ad hoc Method we would use information that the Embassy has solicited from the AMCHAM and seek solutions to these practical business concerns. These discussions would be divided into three areas: 1) loosening sectoral restrictions on FDI; 2) ROK procedures for permitting foreign direct investment; and 3) investment environment issues (e.g. land ownership issues etc.) We expect soon reports from Embassy Seoul on the priority list, on the experience of new investors with Korean investment procedures and on various problems U.S. investors face in acquiring and holding land.

Using the Comprehensive Method we would supplement our ad hoc approach with a theoretical discussion of investment issues. To prepare for these discussions, someone would have to research Korea's investment rules and compare them with some abstract standard such as OECD norms (as embodied in the various investment codes) or perhaps the model U.S. BIT text. Given President Kim's stated desire for Korea to join the OECD by 1996, a side-by-side comparison would both provide us leverage in our discussions and give Korea political cover for any reforms they agreed to make.

We had been hopeful that the OECD would review Korea's investment regime prior to allowing Korea to join the Investment committee as an observer. Unfortunately, the OECD (over US objections) voted to let Korea observe with no prior review, so this work will not be done soon. If this approach is adopted, we need volunteers to compare Korea's investment regime with these international standards.

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DEC Investment

-2-

Next steps:

Sectoral Openings: Embassy Seoul will soon recommend a short priority sector list. USTR will refine this list into a form that can be conveyed to the ROK. Our goal is to obtain new and/or accelerated sectoral openings.

Procedures: We must refine our discussions on procedures for the next plenary. The goal is to reduce the delays in the "notification" process. Embassy Seoul will report on the experiences of recent investors which should provide a good basis to evaluate whether the notification process continues to be a major impediment.

Environment: We can still raise other issues such as land acquisition under the rubric of "investment environment." Embassy Seoul will soon send reports on land acquisition and high tax burden on holding land. Are there other issues we should approach?

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U.S.-Korea Joint Committee Meeting
Seoul, Korea
December 18-19, 1993

Proposed
U.S.-Korea BIRD Foundation

ISSUE:

Korea has renewed its proposal (originally made in 1984) for the establishment of a U.S.-Korea Binational Industrial Research and Development Foundation (BIRD) to support cooperative R&D activities between U.S. and Korean private sector firms. Korea has proposed each side contribute \$30 million to an endowment, and has offered to fund the U.S. portion by advanced payment of loans due to the U.S.

BACKGROUND:

Israeli BIRD

The Israel-U.S. Binational Industrial Research and Development Foundation (BIRD) was established in 1977 to promote mutually beneficial industrial research and development (R&D). Each BIRD project involves a partnership between a U.S. and an Israeli company with up to 50 percent of the project funding being supplied by BIRD and at least 50 percent by the partnership. The BIRD endowment was funded equally by the U.S. and Israel governments. The U.S. share of BIRD's first endowment (\$30 million) was funded from a prepayment of a portion of Israel's local currency debt to the U.S. The second contribution to BIRD's endowment (\$25 million) was funded by Economic Support Funds which had been transferred to Israel in 1984.

The BIRD is generally seen as having been successful. According to BIRD staff, at least \$200 million in taxes to the U.S. Treasury have resulted from income related to sales from BIRD financed projects through 1991, more than exceeding the total endowment of \$110 contributed equally by both countries. Since it began operations, BIRD has funded over 300 projects, of which more than 160 have already led to sales. Products developed at least in part with BIRD support during this period have produced total direct sales of over \$2 billion since the first such sale in 1981.

Factors in this success:

The unique quality of the initial Executive Director is often cited as one of the major factors in the early success of the BIRD. Commonalty of political and international interest

between the U.S. and Israel is also cited. The two sides also have a compatibility at the technical level with developed S&T capabilities. Implicit in these broader themes is the strong U.S.-Israeli business ties, the ease of operation of citizens of each party in the other's market, and the compatible of market structures and approaches.

Other BIRD-Type Organizations:

The success of BIRD stimulated interest in other countries, particularly in the 1983-86 period. Of the 38 countries and regions which expressed interest, only India and France have established BIRD-type foundations with the U.S.

In India, the organization is called the Program for the Advancement of Commercial Technology (PACT). It was established with about \$12 million from the U.S. Agency for International Development, \$100 million from the World Bank, and \$100 million from the Industrial Credit and Investment Corporation (ICIC) of India. The \$200 million from the World Bank and ICIC is in the form of loans which must be repaid.

In France, the organization is called the French-American Cooperation for Entrepreneurship and Technology (FACET). It was totally funded by ANVAR, the French government agency for the promotion of industrial innovation.

Korea's Proposal:

Korea's proposal was first made in 1984. The proposal had high interest at the time and was discussed on several occasions. Changes in the approach on technology in the U.S. and perhaps trade frictions of the late 1980's and the lapsing of the S&T agreement all contributed to non-action on the proposal. With the signing of the S&T agreement in 1992, Korea again raised the proposal for a foundation patterned on the Israeli BIRD.

Although no draft text has been presented, Korea has sponsored a Korea-U.S. Forum in Washington dedicated largely to supporting the concept, and the current and previous Korean Ministers of Science and Technology have written to and met with U.S. officials suggesting a foundation. To date the USG has responded largely by noting the budgetary problem, but has agreed to address the Korean proposal for a BIRD in the S&T Joint Committee Meeting.

Potential Problems:

The U.S. and Korea are now in the midst of a new Presidentially mandated Dialogue for Economic Cooperation (DEC) aimed at Korea's own desire to liberalize and internationalize its economy, and at addressing U.S. "doing business" concerns in Korea, including investment, financial restrictions,

administrative procedures, and competition policy, all of which are being addressed by the DEC. These areas would also be of concern in developing a BIRD with Korea since private sector ties are essential.

The level and extent of Korean R&D, and whether their activities would be compatible with efforts of U.S. industry would also need to be addressed. While Korea has a number of large industrial conglomerates (chebal) which appear to do world class activity, Korea has indicated the foundation would be directed a small and medium size industry whose capabilities are not as clear.

Benefits to the U.S.

Korea does have its pockets of excellence in science and technology (materials - notably steel, electronics, telecommunications and manufacturing) although its R&D spending is low by developed country standards. Ties with Korea could give U.S. firms access to R&D developments in Asia which do not normally make the English language press. A BIRD could also help supplement USG-US Private sector R&D cooperation budgets. If the U.S. contribution is funded by a prepayment of debt, there would be no direct budgetary outlay and that money would be available to stimulate current industrial activity.

Special Considerations:

The U.S. shares with Korea a commonalty of interest at the security, political and international level. Korea has also begun to liberalize and internationalize its economy, but the Korean government retains a strong active hand in business. For Korea, there may also be a temptation to see a BIRD as "technology transfer" rather than technology R&D. A BIRD and the resulting interaction between the U.S. and Korean R&D communities could be educational for Korea and help bring their structures closer in alignment with those of the U.S. Special provisions may be needed in an agreement with Korea to address such problems.

Strategy for discussion at Joint Committee:

As noted above, we are obligated to hear out the Korean proposal. In doing so, the U.S. delegation should continue to point out that funding for a foundation will be a major obstacle for the USG. The U.S. del should use this opportunity to highlight "doing business" problems which a U.S. firm could encounter in its commercial relations with its Korean partner and encourage Korea to address those problems in the DEC. The U.S. del should identify those factors which we believe have contributed to the success of the Israeli BIRD and seek Korea's reaction. Finally, the U.S. del should draw attention to the special considerations, such as those noted above, and seek Korea's reaction.

Talking Points

- The suggestion for a U.S.-Korea BIRD first arose in 1984. Interest appears to have waned for a number of reasons including trade difficulties of the late 1980's and the lapsing of the U.S.-Korea S&T agreement.
- Reviews of the success of the U.S.-Israeli BIRD have identified a number of factors thought to have contributed to the success of that foundation. These include;
 - o the unique abilities of the initial Executive Director;
 - o a commonality of political and international interest between the two countries;
 - o compatibility at the technical level between industries in the two countries and well developed S&T capabilities in each country;
 - o strong business ties;
 - o an ease of operation of citizens of each party in the market of the other; and,
 - o the compatibility of market structures and approaches.
- A number of these factors are clearly present in the U.S.-Korea relationship, or as in the case of an Executive Director, should be possible with careful work.
- Since a BIRD foundation is intended to stimulate commercial activity between companies of the two nations, we must also be concerned with the national operating environments these companies face in each others markets.
- Issues of investment, taxation, administrative procedures and competition policy, all of which are under discussion in the Dialogue for Economic Cooperation (the DEC), are critical to successful commercial activities, as are the protection of intellectual property rights and financing of commercial activities, issues long on our trade agenda.
- We must also be clear that a BIRD is not technology transfer nor the promotion of manufacturing jobs in only one country. Rather, a BIRD is a mutually beneficial effort by governments to stimulate the development of new technology by partner firms of the two countries and a resulting increased economic activity. The exploitation of that technology must be based on commercial arrangements and decisions of those firms free of government interference.
- The operation of the foundation, oversight by governments and, of course funding, are also issues which must be carefully and thoroughly addressed.
- We are interested in Korean views in all these areas.

Drafted:JRichardson:OES/SCP
SESCTB-6645 12/1/93

Clearance:
OES/SCP:MProchnik
OES/STH:BRock
EB:RMorford
EB/ODC:YAnderson
EAP/K:JZumwalt
DOC/TA:SFox
DOC/ITA:JDonius
USTR:PCollins
Treasury:MBrettschneider

KOREA AND THE OECD Investment Issues

ISSUE

The Dialogue for Economic Cooperation (DEC) offers a very good opportunity to examine Korea's plans to accede to the OECD by 1996. Korea may seek observer status to various OECD Committees and Codes, particularly the investment codes, prior to that date. Korea has asked the United States to support its efforts. Therefore, it would be useful to begin a discussion in the DEC on Korea's ideas and plans to bring its investment regime into conformity with the OECD codes.

BACKGROUND

General

There are several OECD instruments which cover investment. The 1976 Declaration on International Investment and Multinational Enterprises is comprised of four related sections: The National Treatment instrument; the Guidelines for multinational enterprises; an instrument on incentives and disincentives to international investment; and an instrument on conflicting requirements. Each of these instruments is supplemented by related OECD Council Decisions which clarify obligations and procedures. In addition, the Code of Liberalisation of Capital Movements and the Code of Liberalisation of Current Invisible Operations also affect investment.

The two instruments most often associated with investment are the National Treatment Instrument (with the Third Revised Decision on National Treatment) and the Code of Liberalisation of Capital Movements. The Code of Liberalisation of Capital Movements contains obligations on non-resident investment and the conditions of entry and establishment for such investors, as well as the investment operations of direct branches. The NTI deals with the treatment for foreign-controlled firms once established in a Member country.

Korea should be aware that the process of joining the OECD will not be an easy one. Specifically, it should not expect to be able to list all its discriminatory practices as exceptions. OECD members have in the past, most recently with Hungary, pressed very hard for removal of non-conforming measures before allowing a country to join.

The National Treatment Instrument

In the NTI, the national treatment commitment is as follows:

Member countries should, consistent with their need to maintain public order, to protect their essential security interests and to fulfil commitments relating to international peace and security, accord to enterprises operating in their territories and owned or controlled directly or indirectly by national of another Member country treatment under their laws, regulations and administrative practices, consistent with international law and no less favourable than that accord in like situations to domestic enterprises.

The OECD encourages liberalization of policies which do not meet this commitment. Liberalization, in the context of the NTI, means that Member countries extend their application of national treatment by progressively removing measures which deny such treatment. However, there is no formal ban on new measures. The process begins by notifying the measures to the Committee on International Investment and Multinational Enterprises (CIME) and culminates in the removal or narrowing of the existing measures which result in a difference in treatment between foreign-controlled enterprises and domestic counterparts in like situations.

The process is facilitated through a classification system which divides laws, regulations and administrative practices covered by the NTI into five categories: investment by established foreign-controlled enterprises; official aids and subsidies; tax obligations; access to local bank credit and capital markets; and government procurement. Exceptions could be measures such as general authorization or licensing requirements, limitations on acquisition or expansion of activities, ceiling on foreign ownership, grants or financial assistance for specific activities, higher or special taxes, public work projects reserved to local firms, etc.

There are other measures that may represent impediments to foreign direct investment. These measures also are reported for transparency purposes.

Clarifications of Exceptions

While the NTI makes no reference to the circumstances under which an operation by a foreign-controlled enterprise already established in a Member country is considered as new investment. Nevertheless, the following types of operations appear to be covered by the NTI, whether they are carried out through reinvested profits and local borrowing or with injection of fresh foreign capital:

3

- a) growth of the foreign-controlled enterprise;
- b) extension in the same line of business or related area;
- c) creation of new activities in different lines of business; and
- d) participation in or takeover of existing national enterprises.

The NTI applies to new investment by foreign-controlled enterprises already established in Member Countries. The NTI covers restrictions on new investment in certain sectors by established foreign-controlled enterprises, except where such restrictions are part of the conditions for approval of the initial investment; this latter case, as part of establishment conditions is covered by the Capital Movements Code mentioned above.

Examinations

All measures notified by OECD Member countries are examined on a country-by-country basis. During examinations inquiries are made as to the nature and purpose of restrictions. Peer pressure in the OECD motivates the removal or narrowing of exceptions. The U.S. adherence to the NTI and the Codes will be examined by the OECD next year, an OECD delegation is expected in February in preparation for the review scheduled for later in the spring.

Conclusions

Only a preliminary discussion of Korea's views on these issues at this time is appropriate. More detailed discussions will unfold during the course of the DEC with additional preparation. The NTI and the various OECD Codes are complicated and will take time to explain to Korea.

Drafted by: MRyckman October 14, 1993
Cleared by: DMorford/HHudson/State
GChristopoulos/Treasury

ECONOMIC SECTION, AMERICAN EMBASSY SEOUL

82-1 Sejong-ro, Chongro-ku

Seoul 110-050, Korea

Fax: 82-2-722-1429, Phone: 82-2-397-4400

DATE: December 3, 1993

No. of pages inclusive: 57

TO: Jim Zumwalt/Bill Heidt

FAX NO:

FROM: Dan Grant

(the PEI list)

Attached is a list of sectors that Amcham has marked up to indicate their priorities for opening. Bill Oberlin of Amcham said the ones ticked are those where the Chamber has had specific inquiries or where member companies are currently prohibited or restricted in their activities.

Bill said the Chamber had difficulties in identifying restricted sectors for opening, except to urge that opening be accelerated ASAP.

He added that the Chamber is not in a good position to identify sectors since they represent companies that are already here. The USTR list is good, he said, and the five year prohibited list is a good place to start.

Please pass this list and the comments along to Peter Collins.

As of five p.m., I had not heard from the Amcham folks assembling comments on investment approval procedures. They warned that speedy feedback from the membership might be slow. I will forward anything we receive today, and follow up with them in any event on Monday.

ECON's thoughts and an update on DEC issues follows.

Dan.

P.2

**U.S. INVESTMENT PROPOSAL ON
LIBERALIZATION OF INDUSTRY SECTORS
AND DISTRIBUTION**

I. Liberalization of Industry Sectors:

USG priorities:

- () cable television equipment, services and programming
- 01122 growing of horticultural specialties
- 22110 publishing of books, brochures, musical books and other publications
- 22190 other publishing
- 22211 upset (e.g., offset) printing
- 24233 manufacture of biological products
- 52311 retail sale of pharmaceutical and medical goods
- 60233 general whole country freight
- 60234 general local freight (remove current criteria)
- 60235 general local cargo pick-up and delivery
- 60239 freight transport by road, n.e.c.
- 63011 air freight and land freight handling
- 63033 operation of freight terminal facilities
- 63039 supporting land transport activities, n.e.c.
- 63051 operation of air terminal facilities
- 63052 ground management of airplanes
- 63059 supporting air transport activities, n.e.c.
- 63091 freight forwarding (eliminate equity restrictions and requirement for Korean CEO)
- 63092 freight brokerage and agency
- 63093 ship and aircraft brokerage and similar services
- 63094 freight packing, crating, inspection and similar services
- 63099 other services allied to transport, n.e.c.
- 64120 courier activities other than national post activities
- 64202 wireless telegraph and telephone
- 64203 added value communication by computer and similar system (eliminate 50% equity limitation and prohibition on foreign management)
- 64209 telecoms, n.e.c.
- 65199 other financial intermediation (credit financing)
- 65923 granting of consumer credit cards
- 65929 other credit granting, n.e.c.
- 65991 venture fund
- 65992 stable-fund management companies (investment advisory services)
- 65993 trusts and trust companies
- 67120 security clearing activities
- 67201 insurance brokerage
- 71320 renting of office machinery and equipment
- 74992 credit rating services
- 74997 clerical agency services

- 80904 vocational training school (English language teaching, computer/electronics training)
- 80905 preliminary training course (Eng. language teaching)
- 80909 adult and other education, n.e.c.
- 81029 non-monetary financial institution (credit financing)

other possibilities:

- 22121 publishing of newspapers
- 22122 publishing of periodicals
- 22219 commercial printing, n.e.c.
- 51104 foreign trade brokerage
- 67120 security dealing activities
- 74119 legal services
- 74121 certified public accounting services
- 74122 taxation services
- 74129 accounting book-keeping and auditing activities
- 74302 advertising preparation
- 74309 advertising
- 85111-85192 hospital management, clinic ownership, nursing home ownership and management
- 85199 clinic-pathological diagnostic laboratories
- 92112 production of motion pictures for advertising

* we request that all sectors be completely liberalized (i.e., for the above sectors, as well as in the distribution area, all criteria for approval should be removed).

IX. Distribution

A. Investment Restrictions

Under Article 6 of the Foreign Capital Inducement Act (FCIA), the Ministry of Finance restricts investment in approximately thirteen wholesale and nineteen retail sectors. Korea's draft distribution liberalization plan, announced in January 1993, forecasts liberalization of these sectors during the period 1996-1998. Korea should modify this plan so as to begin liberalization in 1993 and complete liberalization by December 1994.

USG priority sectors:

- o retail sale of cosmetics and toilet soaps 52313
- o wholesale of alcoholic beverages 51225
- o telecommunications equipment
- o lumber and building materials (retail)
- o automobiles, auto parts and accessories, auto servicing
- o cosmetics (retail)
- o meat (wholesale)
- o fruits and vegetables (wholesale)
- o fruits (retail)
- o vegetables (retail)
- o books and other printed materials (wholesale)

Sectors	Businesses	Date of Liberalization	Current Criteria
	Distilling of ethyl alcohol(A)	Maintained	Joint venture required with local companies which have obtained license or permission to engage in the same line of business
	Distilling of sojoo(A)	Maintained	
	Manufacture of tobacco products	None	
	Publishing of newspapers	None	
	Publishing of periodicals	None	Manufacture of blood preparation with foreign equity ratio less than 50% restricted
	Manufacture of biological products	Maintained	
	Manufacture of explosives and pyrotechnic products	None	
Electricity, gas, and water supply(1)	Collection, purification, and distribution of water	None	
Wholesale, retail sales/repair of personal and household goods(4)	Oil service stations	None	
	Wholesale of meats	None	
	Retail sale of grain	None	
	Retail sale of arts and antiques	None	
Hotels and restaurants(6)	General amusement/drinking places	None	
	Amusement / drinking / dancing places	None	

(Note) A : Joint-venture required businesses

Sectors	Businesses	Date of Liberalization	Current Criteria
	Non-scheduled air transport	None	Allowed when foreign equity ratio does not exceed 1/3
	Air freight and land freight handling	None	
	Operation of passenger bus terminal facilities	None	
	Supporting air transport activities n.e.c. (Air traffic controller services, etc.)	None	
	Wire telegraph and telephone	None	
	Wireless telegraph and telephone	Maintained	
	Telecommunications n.e.c. (Radar, communication satellites, etc.)	None	
Finance and insurance(20)	Domestic banking	Maintained	Commercial banks allowed
	Other general financial intermediation n.e.c. (Postal deposits, etc.)	None	
	Mutual credit financial intermediation	None	
	Other credit granting, n.e.c. (Short-term credit services, etc.)	None	
	Investment companies and investment trusts	Maintained	
			Venture capital companies, finance companies, merchant banking companies, leasing companies allowed
			Venture funds with foreign equity ratio not exceeding 50 % allowed

Sectors	Businesses	Date of Liberalization	Current Criteria
	Insurance appraisal	None	Joint venture with local companies that have obtained license or permission to engage in the same line of business allowed
	Activities auxiliary to insurance and pension funding n.e.c.(Insurance accounting service, etc.)	None	
	Accident insurance(A)	Maintained	
	Insurance against loss(A)	Maintained	
Real estate rental and business services (16)	Rental of residential building	None	
	Rental of non-residential building	None	
	Rental of real estate n.e.c. (Rental of land, etc)	None	
	Subdividing residential building	None	
	Subdividing non-residential building	None	
	Land development	None	
	Real estate agency and brokerage	None	
	Real estate appraisal	None	
	Real estate managing	None	
	Real estate activities on a fee or contract basis n.e.c.(Investigation of real estate ownership services, etc.)	None	
	Legal representation	None	

(Note) A : Joint-venture required businesses

Sectors	Businesses	Date of Liberalization	Current Criteria
	Stable-fund management companies	None	
	Other financial intermediation n.e.c.(Sale of mortgages, patents, etc.)	None	
	Life insurance	Maintained	Allowed when the Guideline for Licensing a Joint Venture Life Insurance Company is satisfied
	Title guarantee insurance	None	
	Medical care insurance	None	
	Workmen's accident compensation insurance and other social security insurance	None	
	Life insurance—reinsurance	Maintained	Only the reinsurance business of direct insurance companies allowed
	Non life insurance—reinsurance	Maintained	Only the reinsurance business of direct insurance companies allowed
	Security dealing activities	Maintained	Allowed when foreign ownership of a domestic securities company does not exceed 50%
	Commodity exchanges	None	
	Insurance agent and broker	Maintained	Only the agency under the exclusive control allowed

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3132/USFCS/OIO/EAP/ASTERLING/CKIM

DEPARTMENT FOR EB/TRA/AN AND EAP/K - ZUMWALT AND HEIDT

SUBJECT: SUMMARY OF PLANS TO OPEN THE KOREAN AIR CARGO SERVICES MARKET

E.O. 12356: N/A
TAGS: EAIR, ETRD, KS

REF: SEOUL 7649

1. SUMMARY EMBASSY HAS COMPILED THE FOLLOWING INFORMATION FROM A SERIES OF COMMUNICATIONS WITH MOFA, MOT, AND EPB IN AN EFFORT TO CLARIFY ROKG PLANS TO OPEN ITS AIR CARGO SERVICES SECTOR TO FOREIGN PARTICIPATION. WE HOPE THIS INFORMATION WILL CONTRIBUTE TO THE ONGOING REVIEW OF INVESTMENT LIBERALIZATION BY WASHINGTON AGENCIES UNDER THE DEC. END SUMMARY

MOFA'S EXPLANATION OF CONFUSION OVER MARKET OPENING

2. IN A RECENT CIVAIR FACILITATION TASK FORCE MEETING (SEPTEL), MOFA ECONOMIC DIVISION DIRECTOR SUH YONG HYUN SAID THAT HE THOUGHT MUCH OF THE CONFUSION OVER THE OPENING OF THE AIR CARGO SERVICES MARKET WAS CAUSED BY THE VAGUENESS OF KOREAN LAW, WHICH WAS THEN MAGNIFIED WHEN TRANSLATED INTO ENGLISH. IN A SEPARATE COMMUNICATION WITH SUH'S OFFICE, THE EMBASSY HAS LEARNED THAT MOFA EXPECTS TO FIND DOOR-TO-DOOR COURIER SERVICES ON A LIST OF CORE USG PRIORITIES IN UPCOMING DEC INVESTMENT TALKS IN WASHINGTON. MOFA'S DIFFICULTIES IN DISENTANGLING KOREAN LAW AND REGULATIONS CONTINUE.

3. ACCORDING TO SUH, TWO KINDS OF LAW ARE AT WORK: ONE TO REGULATE THE DELIVERY OF DOCUMENTS, TO WHICH THE TERM "COURIER" REFERS; AND ANOTHER TO REGULATE THE DELIVERY OF FREIGHT, TO WHICH THE TERM "INTERMODAL" REFERS.

4. THE POSTAL ACT LIMITS COURIER SERVICES TO IMPORT/EXPORT RELATED DOCUMENTS (AND PRODUCT SAMPLES IN PACKAGES WEIGHING LESS THAN 40 KG), SO AS NOT TO AFFECT THE OPERATION OF THE PUBLIC POST OFFICE. THE AVIATION ACT AND THE CARGO LOGISTICS ACT ADDRESS THE MOVEMENT OF FREIGHT. EPB'S PUBLISHED MARKET

LIBERALIZATION PLAN AND THE APPLICATION OF OTHER MARKET SECTOR LAWS AND THE FOREIGN CAPITAL INDUCEMENT ACT (FCIA) ADD TO THE CONFUSION.

5. SUH SAID THAT THE ROKG WAS TRYING TO MERGE THESE DIFFERENT LEGAL AND POLICY LINES INTO ONE, BUT THE PROCESS WAS FAR FROM

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OVER. HE SAID MOFA BELIEVED THE SITUATION SHOULD BE IMPROVED, AND THAT WAS ONE REASON FOR ITS SUPPORT OF INVESTMENT TALKS WITH THE U.S. SUH ASSERTED THAT WHILE THE CIVAIR FACILITATION TASK FORCE WAS NOT THE FORUM TO DISCUSS MARKET OPENING POLICY OR LAW, IT WAS A FORUM THROUGH WHICH MORE INFORMATION TO U.S. CARRIERS ON THE TOPIC COULD BE PROVIDED.

CURRENT UNDERSTANDING OF SECTOR OPENINGS

WHAT FOLLOWS IS A SYSTEMATIC RUN DOWN OF MARKET OPENINGS WHICH THE ROKG HAS PLANNED FOR A NUMBER OF KEY KOREAN SECTOR INDUSTRY CLASSIFICATIONS (KSIC). POST'S CURRENT UNDERSTANDING OF AIR CARGO SERVICE SECTOR OPENINGS IS, OF COURSE, SUBJECT TO CHANGE.

KSIC CODE	SECTOR	ITEM NOTE
62202	AIRPORT RENTAL	
	DATE OF OPENING:	JANUARY 1, 1997
	AFFECTING LAW:	ARTICLE 134, AVIATION ACT
	SCOPE OF BUSINESS:	TO CARRY PASSENGERS AND CARGOS VIA AIRCRAFT ON A FEE BASIS AT THE DEMAND OF A THIRD PERSON.
	NATURE OF OPENING:	AIRCRAFT OPERATION AS DEFINED UNDER ARTICLE 134 OF THE AVIATION ACT
63051	OPERATION OF AIR TERMINAL FACILITIES	
	DATE OF OPENING:	JANUARY 1, 1995
	AFFECTING LAW:	PARAGRAPH 2, ARTICLE 139, AVIATION ACT
	SCOPE OF BUSINESS:	OPERATION AND ESTABLISHMENT OF FACILITIES NECESSARY TO HANDLE AIR
	NATURE OF OPENING:	TRANSPORT OF PASSENGER OR CARGOS AT NON-AIRPORT LOCATIONS. AFFECTS OPERATIONS AT THE DOWNTOWN SEOUL CITY AIR TERMINAL

KSIC CODE	SECTOR	ITEM NOTE
63052	GROUND MANAGEMENT OF AIRPLANES	
	DATE OF OPENING:	JANUARY 1, 1997
	AFFECTING LAW:	ARTICLE 137, AVIATION ACT
	SCOPE OF BUSINESS:	MAINTENANCE, REPAIRS, AND INSPECTION OF AIRCRAFT AT THE AIRPORT PRIOR TO ACTUAL OPERATION AT THE AIRPORT.
	NATURE OF OPENING:	DESCRIBED AS AIRCRAFT HANDLING OR AIRCRAFT MAINTENANCE.
	KNOWN RESTRICTIONS:	PARTIAL OPENING, FOREIGN EQUITY HOLDINGS ARE RESTRICTED TO LESS THAN 50% IN A BUSINESS.
63091	FREIGHT FORWARDING	
	DATE OF OPENING:	JANUARY 1, 1995
	AFFECTING LAW:	PARAGRAPH 1, ARTICLE 139 AVIATION ACT
	SCOPE OF BUSINESS:	ARTICLE 8, 1991 CARGO LOGISTICS ACT ARTICLE 3, PRESIDENTIAL DECREE ON ENFORCEMENT REGULATION OF THE CARGO LOGISTICS ACT
	SCOPE OF BUSINESS:	TO COLLECT, CONSOLIDATE, AND TRANSPORT CARGOES BY ISSUING

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NATURE OF OPENING: IN-HOUSE AIRWAY BILL UNDER SELF'S
 KNOWN RESTRICTIONS: NAME UPON DEMAND OF OTHER PERSONS.
 AIRPORT-TO-AIRPORT TRANSPORT ONLY.
 ONLY FORWARDING BY AIR WILL BE
 ALLOWED. AIR-TO-GROUND INTERMODAL
 TRANSPORT WILL NOT BE ALLOWED.
 CARGO LOGISTICS ACT REQUIRES THAT
 ANYONE WHO WANTS TO CONDUCT
 INTERMODAL FREIGHT FORWARDING MUST
 REGISTER ITS BUSINESS WITH MOT.

KSIC
 CODE SECTOR

ITEM NOTE

63091 INLAND FREIGHT FORWARDING)

DATE OF OPENING: JANUARY 1, 1997
 AFFECTING LAW: ARTICLE 139, AVIATION ACT
 ARTICLE 8, 1991 CARGO LOGISTICS ACT

SCOPE OF BUSINESS: ARTICLE 3, PRESIDENTIAL DECREE ON
 ENFORCEMENT REGULATION OF THE
 CARGO LOGISTICS ACT
 TO COLLECT, CONSOLIDATE, AND
 TRANSPORT CARGOS INLAND.
 NATURE OF OPENING: INLAND TRANSPORT, SEEN AS DISTINCT
 AND SEPARATE FROM INTERMODAL
 TRANSPORT.
 KNOWN RESTRICTIONS: FOREIGNERS ARE TO BE PERMITTED ONLY
 A MINORITY INTEREST IN A BUSINESS
 CONDUCTING INLAND FREIGHT
 FORWARDING. THE DETAILS ON
 RESTRICTIONS HAVE NOT YET BEEN
 DETERMINED.

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SCOPE OF BUSINESS: POSTAL ACT
 COLLECTING (PICK-UP), TRANSPORTING,
 AND DELIVERING COMMERCIAL DOCUMENTS
 AND PACKAGES OF SAMPLES WEIGHING
 LESS THAN 40 KG. DELIVERY CAN
 INVOLVE MORE THAN ONE
 TRANSPORTATION METHOD (VEHICLE),
 WHICH THE BUSINESS CAN OWN.
 NATURE OF OPENING: 1) DOCUMENTS REQUIRED FOR TRADING
 (IMPORT-EXPORT RELATED) WITH
 FOREIGN COUNTRIES; 2) DOCUMENTS
 REQUIRED FOR FOREIGN CURRENCY OR
 TECHNOLOGY INDUCEMENT FROM FOREIGN

COUNTRIES; 3) DOCUMENTS REQUIRED
 FOR FOREIGN EXCHANGE TRANSACTIONS
 WITH FOREIGN COUNTRIES. THE POSTAL
 ACT PRECLUDES THE PROVISION OF
 DOMESTIC COURIER SERVICES, EXCEPT
 FOR THE TRADE RELATED DOCUMENTS
 MENTIONED ABOVE.
 KNOWN RESTRICTIONS: ONLY PASSENGER VEHICLES (DEFINED AS
 PASSENGER CAR, MINIVAN, AND PERHAPS
 VAN) MAY BE USED FOR DELIVERY.
 AVIATION ACT IS SUPPOSED TO BE
 REVISED BEFORE JANUARY 1, 1996 TO
 ELIMINATE CURRENT FOREIGN MINORITY
 OWNERSHIP RESTRICTIONS.

KARTMAN

63092 FREIGHT AGENCY AND BROKERAGE

DATE OF OPENING: JANUARY 1, 1995
 AFFECTING LAW: ARTICLE 139, AVIATION ACT
 SCOPE OF BUSINESS: TO ACT AS AN AGENT CAPABLE OF
 CONCLUDING CONTRACTS FOR CARGO
 TRANSPORT BY AIRCRAFT ON BEHALF OF
 AN AIR TRANSPORT BUSINESS OR AIR
 TRANSPORT GENERAL AGENCY. TO

NATURE OF OPENING: CONDUCT CUSTOMS CLEARANCE
 ACTIVITIES AS A CUSTOMS BROKER,
 CUSTOMS BROKERAGE COMPANY, AND/OR
 BROKER-LICENSED CORPORATION.
 APPARENTLY FULL OPENING AS
 DESCRIBED IN ARTICLE 139, AVIATION
 ACT.

KSIC
 CODE SECTOR

ITEM NOTE

64120 COURIER SERVICES

DATE OF OPENING: JANUARY 1, 1996
 AFFECTING LAW: ARTICLE 139, AVIATION ACT
 ARTICLE 306, AVIATION ACT
 ENFORCEMENT REGULATION
 CARGO LOGISTICS ACT

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. cable	re: DEC Approaching the investment issue. (1 page)	12/03/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
International Economic Affairs (William Whyman)
OA/Box Number: 121

FOLDER TITLE:

Korea December, 1993: Vol. 1 [4]

2009-0528-F

vz1533

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

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RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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USDOC FOR 4430/IEP/OPB/EAP/JDOMIUS

TREASURY FOR OASIA/MBRETTSCHNEIDER

DEPARTMENT FOR EAP/K - RICHARDSON AND ZUMWALT

E.O. 12356: N/A
STATE PASS USDA ELECTRONICALLY FOR FAS/ITP HEMPHILL

TAGS: ETRD, EINU, ECON, KS

SUBJECT: BASIC LAW ON ADMINISTRATIVE REGULATIONS AND WORK

RELATING TO SERVING THE GENERAL PUBLIC INTEREST (DRAFT)

1. FOLLOWING IS THE EMBASSY'S INFORMAL TRANSLATION OF THE ROKG
BASIC LAW ON ADMINISTRATIVE REGULATIONS AND WORK RELATING TO
SERVING THE GENERAL PUBLIC INTEREST. THE LEGISLATION WAS
SUBMITTED TO THE NATIONAL ASSEMBLY ON OCTOBER30.

2. BEGIN TEXT OF ADPRAC LAW:

CHAPTER 1. GENERAL

ARTICLE 1. PURPOSE
THE PURPOSE OF THIS LAW IS TO SET FORTH BASIC PRINCIPLES FOR
ADMINISTRATIVE REGULATION AND WORK RELATING TO SERVING THE
GENERAL PUBLIC INTEREST IN ORDER TO REDUCE THE DIFFICULTIES
AND BURDENS PLACED ON THE CITIZENRY, AND THUS TO PROTECT
PEOPLE'S RIGHTS AND CARRY OUT FAIR ADMINISTRATION.

ARTICLE 2. DEFINITIONS

THE TERMS USED IN THIS LAW SHALL BE AS FOLLOWS.

1. THE TERM "ADMINISTRATIVE REGULATION" SHALL MEAN THE
RESTRICTION OF PEOPLE'S RIGHTS OR THE IMPOSITION OF
RESPONSIBILITIES ON THE THE CITIZENRY BY THE GOVERNMENT OR
BY LOCAL AUTONOMOUS ORGANIZATIONS IN CONJUNCTION WITH THE
ATTAINMENT OF SPECIFIC ADMINISTRATIVE GOALS.

2. THE TERM "INTERESTED PUBLIC" SHALL MEAN AN INDIVIDUAL,

CORPORATION OR ORGANIZATION MAKING A REQUEST TO AN
ADMINISTRATIVE ORGANIZATION FOR SPECIFIC ACTION.

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3. THE TERM "BUSINESS RELATING TO SERVING THE GENERAL PUBLIC
INTEREST" SHALL MEAN THE HANDLING OF REQUESTS FILED BY THE
INTERESTED PUBLIC WITH ADMINISTRATIVE ORGANIZATIONS FOR
SPECIFIC ACTION (HEREINAFTER REFERRED TO AS "ITEMS OF
SPECIFIC PUBLIC INTEREST").

4. THE TERM "GENERAL PUBLIC GRIEVANCE" SHALL MEAN THE GENERAL
PUBLIC INTEREST CONCERNING ILLEGITIMATE, INAPPROPRIATE OR
OTHERWISE NEGATIVE WAYS OF EXECUTING GOVERNMENT
ADMINISTRATION (INCLUDING DE FACTO AND NONPREJUDICIAL
ACTION), AS WELL AS THE INFRINGEMENT OF PEOPLE'S RIGHTS
AND THE IMPOSITION OF INCONVENIENCES AND BURDENS ON THE
GENERAL PUBLIC.

ARTICLE 3. APPLICABILITY

(1) MATTERS RELATING TO ADMINISTRATIVE REGULATIONS, SERVING
THE GENERAL PUBLIC INTEREST, AND PROCESSING GRIEVANCES OF
THE GENERAL PUBLIC SHALL, UNLESS OTHERWISE SPECIFICALLY
STIPULATED IN OTHER LAWS, BE GOVERNED BY THIS LAW.

(11) IN APPLYING THE PROVISIONS OF THIS LAW, CORPORATIONS,

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USDOC FOR 4430/IEP/OPB/EAP/JDONIUS

TREASURY FOR OASIA/MBRETTSCHEIDER

DEPARTMENT FOR EAP/K - RICHARDSON AND ZUMWALT

E.O. 12356: N/A

STATE PASS USDA ELECTRONICALLY FOR FAS/ITP HEMPHILL

TAGS: ETRD, EINV, ECON, KS

SUBJECT: BASIC LAW ON ADMINISTRATIVE REGULATIONS AND WORK

ASSOCIATIONS OR INDIVIDUALS COMMISSIONED BY LAWS TO
EXERCISE ADMINISTRATIVE REGULATIONS SHALL BE INCLUDED IN
THE CATEGORY OF GOVERNMENT AGENCIES, EXCEPT THOSE
CORPORATIONS, ASSOCIATIONS OR INDIVIDUALS STIPULATED BY
PRESIDENTIAL DECREE.

CHAPTER 2. THE PRINCIPLES AND REVIEW OF ADMINISTRATIVE REGULATIONS

ARTICLE 4. LEGALITY OF ADMINISTRATIVE REGULATIONS

ADMINISTRATIVE REGULATIONS SHALL BE BASED ON STATUTORY
PROVISIONS, AND THEIR SUBSTANCE SHALL BE SPECIFIC AND
TRANSPARENT.

ARTICLE 5. PRINCIPLES OF ADMINISTRATIVE REGULATIONS

THE OBJECTS OF AND MEASURES USED TO IMPLEMENT ADMINISTRATIVE
REGULATIONS SHALL BE LIMITED TO THE MINIMUM EXTENT NEEDED TO
ACHIEVE THE GOAL OF THE REGULATIONS, AND THE REGULATIONS
SHALL BE APPLIED OBJECTIVELY AND IMPARTIALLY.

ARTICLE 6. REVIEW OF ADMINISTRATIVE REGULATIONS

HEADS OF CENTRAL GOVERNMENT AGENCIES SHALL, UPON INTRODUCING
NEW ADMINISTRATIVE REGULATIONS OR TIGHTENING EXISTING
REGULATIONS, REVIEW THE FOLLOWING ITEMS THOROUGHLY BEFORE
DETERMINING THE TARGET GROUP, SCOPE, AND MEASURES FOR SUCH
RESTRICTIONS.

(1) THE NEED FOR AND PRACTICALITY OF THE REGULATION

(2) ADDITIONAL BURDENS PLACED ON THE PARTIES TO BE AFFECTED BY
THE RESTRICTION

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(3) POSSIBLE OVERLAP WITH EXISTING REGULATIONS

(4) POSSIBLE FACTORS LIMITING COMPETITION

(5) ORGANIZATIONAL, MANPOWER AND BUDGETARY NEEDS FOLLOWING THE
ESTABLISHMENT OF OR TIGHTENING OF THE REGULATION

(6) OBJECTIVITY AND TRANSPARENCY OF CRITERIA USED IN THE
ADMINISTRATIVE REGULATION

(7) ADEQUACY OF DOCUMENTARY AND PROCEDURAL REQUIREMENTS

ARTICLE 7. CONSULTATION WITH RELEVANT ORGANIZATIONS, ETC.

IN THE EVENT OF ESTABLISHING A NEW REGULATION OR TIGHTENING
AN EXISTING REGULATION, OR WHEN PLANNING TO REVISE RELATED
LEGISLATION, THE HEAD OF A CENTRAL GOVERNMENT AGENCY SHALL
CONSULT IN ADVANCE WITH RELEVANT CENTRAL GOVERNMENT AGENCY
HEADS. IN ADDITION, OPINIONS OF LOCAL GOVERNMENT AGENCIES,
PRIVATE ORGANIZATIONS, RESEARCH ORGANIZATIONS AND EXPERTS IN
SPECIFIC FIELDS SHALL BE TAKEN INTO CONSIDERATION BY MEANS OF
ADVANCE ANNOUNCEMENT OF THE LEGISLATION.

ARTICLE 8. JOINT REVIEW COUNCIL, ETC.

(1) HEADS OF CENTRAL GOVERNMENT AGENCIES SHALL, IN CONJUNCTION
WITH THE RESULT OF THE REVIEW PRESCRIBED UNDER ARTICLES 6
AND 7, NOTIFY THE MINISTER OF THE MINISTRY OF GOVERNMENT
ADMINISTRATION OF THE CONTENT OF THE CONSULTATION.

(11) THE MINISTER OF THE MINISTRY OF GOVERNMENT ADMINISTRATION
MAY CONVENE A JOINT MEETING WITH OFFICIALS REPRESENTING
THE ECONOMIC PLANNING BOARD; MINISTRY OF HOME AFFAIRS;
MINISTRY OF JUSTICE; MINISTRY OF TRADE, INDUSTRY AND
ENERGY; MINISTRY OF GOVERNMENT ADMINISTRATION; MINISTRY
OF LEGISLATION; THE ADMINISTRATIVE COORDINATION OFFICE
UNDER THE PRIME MINISTER'S OFFICE, THE FAIR TRADE
COMMISSION, AND OTHER RELATED GOVERNMENT AGENCIES, AND
EXPERTS FROM THE PRIVATE SECTOR, IF IT IS DEEMED
NECESSARY TO ADJUST DIFFERENCES AMONG CONCERNED AGENCIES
ON NOTIFICATIONS PROVIDED UNDER THE PARAGRAPH (1) ABOVE;
PROVIDED THAT MATTERS ALREADY REVIEWED BY THE BUSINESS
CONTROL REVIEW COUNCIL UNDER THE SPECIAL LAW FOR EASING
BUSINESS CONTROL SHALL BE CONSTRUED AS HAVING BEEN
ALREADY SUBJECTED TO JOINT REVIEW.

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NSAE-00 OMB-01 OPIC-08 SP-00 STR-16 USIE-00 CORE-00
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TREASURY FOR OASIA/MBRETTSCHEIDER

DEPARTMENT FOR EAP/K - RICHARDSON AND ZUMWALT

E.O. 12356: N/A

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TAGS: ETRD, EINV, ECON, KS
SUBJECT: BASIC LAW ON ADMINISTRATIVE REGULATIONS AND WORK

CHAPTER 3. PROCESSING REQUESTS OF THE GENERAL PUBLIC

ARTICLE 9. PRINCIPLES OF PROCESSING GENERAL PUBLIC REQUESTS

- (I) BUSINESS RELATED TO SERVING THE GENERAL PUBLIC SHALL, IN ACCORDANCE WITH THE PROVISIONS OF THE LAW, TAKE PRIORITY OVER OTHER BUSINESS.
- (II) HEADS OF GOVERNMENT AGENCIES SHALL, FOR THE CONVENIENCE OF THE GENERAL PUBLIC, DISPLAY ON BULLETIN BOARDS OR PROVIDE HAND-BOOKS A DESCRIPTION OF MATTERS RELATED TO DOCUMENTATION REQUIREMENTS, AGENCIES RESPONSIBLE FOR PROCESSING, TIME REQUIRED FOR PROCESSING, AND CRITERIA AND PROCEDURES FOR PROCESSING, ETC.
- (III) UNLESS OTHERWISE SPECIFICALLY PROVIDED FOR IN OTHER LAWS, ANY APPLICATIONS FILED BY THE GENERAL PUBLIC SHALL NOT BE RETAINED IN HOLD, NOR BE REFUSED WITHOUT DUE CAUSE. ALSO, DOCUMENTS TURNED IN BY THE GENERAL PUBLIC SHALL NOT BE TURNED BACK WITHOUT APPROPRIATE CAUSE.
- (IV) GOVERNMENT AGENCIES SHALL EXERT EFFORTS TO PREVENT THE INFRINGEMENT OF INFORMATION SUBMITTED BY THE GENERAL PUBLIC.

ARTICLE 10. ONE-TIME-VISIT SERVICE SYSTEM

- (I) IN CONJUNCTION WITH SERVING THE INTEREST OF THE GENERAL PUBLIC, THE ONE-TIME-VISIT SERVICE SYSTEM SHALL BE ESTABLISHED BY GIVING RESPONSIBLE OFFICIALS DIRECT CHARGE OF ALL NECESSARY PROCEDURES, INCLUDING INTERNAL

CONFIRMATION OF RELATED DATA AND INTER-AGENCY CONSULTATIONS, SO AS TO KEEP THE INTERESTED PUBLIC FROM MAKING REPEATED CALLS IN ORDER TO FILL A REQUEST.

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(II) MATTERS NECESSARY FOR THE ONE-TIME-VISIT SERVICE SYSTEM SHALL BE SPECIFIED IN THE PRESIDENTIAL DECREE.

ARTICLE 11. ESTABLISHMENT OF REVIEWING CRITERIA AND ITS PUBLIC ANNOUNCEMENT

HEADS OF ADMINISTRATIVE AGENCIES SHALL DETERMINE OBJECTIVELY AND MAKE PUBLIC IN ADVANCE THE CRITERIA IN SUFFICIENT DETAIL BUSINESS RELATED TO SERVING THE GENERAL PUBLIC, INCLUDING LICENSING AND AUTHORIZATION, EXCEPT IN CASES WHEN SUCH PUBLIC ANNOUNCEMENT IS NOT FEASIBLE DUE TO THE SPECIFIC NATURE OF THE ACTION OR WHEN HARM TO THE PUBLIC SAFETY OR PUBLIC INTERESTS IS EXPECTED. THE SAME WILL BE APPLICABLE TO ALTERATIONS OR REVOCATION OF THE CRITERIA.

ARTICLE 12. JUSTIFICATION FOR DENIAL ACTION

- (I) IN THE EVENT THAT A PUBLIC REQUEST FOR AUTHORIZATION OR LICENSE CANNOT BE HONORED OR IS CONSIDERED IMPRACTICABLE, THE APPLICANT SHALL BE NOTIFIED STATING THE LEGAL BASIS OR REASONS FOR SUCH IMPRACTICABILITY.
- (II) IF A GOVERNMENT AGENCY DECIDES TO REFUSE A PUBLIC REQUEST AND TO NOTIFY SUCH INTENT, IT SHALL ALSO NOTIFY THE REQUESTOR OF WHETHER THE REQUESTOR HAS THE RIGHT TO APPEAL TO THE ADMINISTRATIVE ADJUDICATION, AGENCIES TO WHICH SUCH APPEAL CAN BE MADE AND OTHER NECESSARY MATTERS RELATING TO THE APPEALS.

ARTICLE 13. RIGHTS OF THE GENERAL PUBLIC

- (I) IN CASE A GOVERNMENT AGENCY FAILS TO PROCESS A REQUEST WITHIN A PRESCRIBED TIME PERIOD, THE GENERAL PUBLIC RESERVES THE RIGHT TO REQUEST THE CONCERNED GOVERNMENT AGENCY OR ITS SUPERVISORY ORGAN TO PROCESS THE REQUEST WITHOUT DELAY.
- (II) THE GENERAL PUBLIC MAKING A REQUEST OR AN INTERESTED PARTY MAY REQUEST A REVIEW OF THE CRITERIA USED BY THE GOVERNMENT AGENCY. IN SUCH A CASE, THE GOVERNMENT AGENCY SHALL HAVE NO RIGHT TO REFUSE THE REQUEST UNLESS OTHERWISE JUSTIFIABLE UNDER THE PROVISIONS OF ARTICLE 11 OF THE LAW.

ARTICLE 14. CONSOLIDATED PUBLIC ANNOUNCEMENT OF STANDARD CRITERIA FOR PROCESSING REQUESTS OF THE GENERAL PUBLIC.

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FM AMEMBASSY SEOUL
TO SECSTATE WASHDC PRIORITY 1125
INFO TREASURY WASHDC
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UNCLAS SECTION 04 OF 08 SEUL 11243

USDOC FOR 4430/IEP/OPB/EAP/JDONIUS

TREASURY FOR OASIA/MBRETTSCHNEIDER

DEPARTMENT FOR EAP/K - RICHARDSON AND ZUMWALT

E.O. 12356: N/A

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CHAPTER 3. PROCESSING REQUESTS OF THE GENERAL PUBLIC

(I) THE MINISTER OF THE MINISTRY OF GOVERNMENT ADMINISTRATION SHALL, FOR THE SAKE OF THE CONVENIENCE OF THE GENERAL PUBLIC, PUBLICIZE IN THE GOVERNMENT GAZETTE THE STANDARD CRITERIA FOR PROCESSING REQUESTS FROM THE GENERAL PUBLIC. THE NOTICE SHALL CONTAIN INFORMATION ON AGENCIES RESPONSIBLE FOR PROCESSING REQUESTS FROM THE GENERAL PUBLIC, PROCESSING PERIODS, DOCUMENTATION REQUIREMENTS, PROCESSING PROCEDURES, APPLICATION PROCEDURES, ETC.

(II) HEADS OF GOVERNMENT AGENCIES SHALL IMMEDIATELY NOTIFY THE MINISTER OF THE MINISTRY OF GOVERNMENT ADMINISTRATION OF ANY CHANGES TO BE MADE ON THE STANDARD CRITERIA FOR PROCESSING REQUESTS OF THE GENERAL PUBLIC PROVIDED FOR IN PARAGRAPH (I) ABOVE, RESULTING FROM THE REVISION OR REVOCATION OF RELATED LAWS.

(III) THE MINISTER OF THE MINISTRY OF GOVERNMENT ADMINISTRATION MAY, IF IT IS DEEMED NECESSARY FOR SIMPLIFYING THE PROCEDURES FOR SERVING THE GENERAL PUBLIC, REQUEST HEADS OF GOVERNMENT AGENCIES TO REVISE PROCEDURES PROVIDED FOR IN RELATED LAWS, INCLUDING THE PROCESSING TIME, DOCUMENTATION REQUIREMENTS, PROCESSING FLOWS, APPLICATION METHODS, ETC.

CHAPTER 4. COUNCIL FOR PROCESSING PUBLIC GRIEVANCES

SECTION 1. ESTABLISHMENT AND COMPOSITION

ARTICLE 15. ESTABLISHMENT

IN ORDER TO ACCEPT, CONSULT AND INVESTIGATE GRIEVANCES FILED BY THE GENERAL PUBLIC, AND TO PROTECT PEOPLE'S RIGHTS BY

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OVERSEEING THE SERVICES RENDERED BY GOVERNMENT AGENCIES FOR THE GENERAL PUBLIC, A COUNCIL (HEREINAFTER REFERRED TO AS THE COUNCIL) FOR PROCESSING PUBLIC GRIEVANCES SHALL BE ESTABLISHED UNDER THE OFFICE OF THE PRIME MINISTER.

ARTICLE 16. CONTROLS AND FUNCTIONS

(I) THE FUNCTIONAL JURISDICTION OF THE COUNCIL SHALL BE LIMITED TO MATTERS RELATING TO THE PERFORMANCE OF GOVERNMENT AGENCIES IN CONDUCTING BUSINESS RELATED TO SERVING THE GENERAL PUBLIC AND ACTS OF EMPLOYEES CONDUCTING SUCH BUSINESS, EXCEPT FOR THE FOLLOWING ITEMS, WHICH ARE OUTSIDE THE COUNCIL'S JURISDICTION:

1. MATTERS REQUIRING SOPHISTICATED POLITICAL DECISIONS, RELATED TO NATIONAL SECURITY, OR INVOLVING CONFIDENTIALITY FOR OFFICIAL REASONS.
2. MATTERS RELATED TO THE NATIONAL ASSEMBLY, JUDICIAL COURT, THE COURT OF CONSTITUTION, THE CENTRAL ELECTION MANAGEMENT COMMITTEE, THE BOARD OF AUDIT AND INSPECTION, AND LOCAL ASSEMBLIES.
3. MATTERS RELATING TO PERSONAL PRIVACY.
4. MATTERS WHICH BY THEIR NATURE ARE CONSIDERED BETTER SUITED TO BE HANDLED BY ORGANIZATIONS RESPONSIBLE FOR

INVESTIGATION AND LAW ENFORCEMENT (INCLUDING SAFETY SURVEILLANCE, PROTECTIVE SURVEILLANCE, HOSPITAL SURVEILLANCE, SOCIAL WORK ORDER, ETC.), OR MATTERS FOR WHICH AUDIT BY THE BOARD OF AUDIT AND INSPECTION ARE IN PROGRESS.

5. MATTERS RELATING TO ADMINISTRATIVE RULINGS, LEGAL SUITS, APPEALS TO THE COURT OF THE CONSTITUTION, APPEALS TO THE BOARD OF AUDIT AND INSPECTION, AND OTHER APPEALS MADE UNDER OTHER LAWS.
6. MATTERS FOR WHICH PROCEDURES ARE IN PROGRESS FOR ADJUSTING CONFLICTS OF INTEREST AMONG INTERESTED PARTIES, INCLUDING RECONCILIATION, ADJUSTMENT, MEDIATION, ARBITRATION, ETC.
7. MATTERS RELATING TO RIGHTS WHICH HAVE BEEN SETTLED THROUGH COURT SENTENCE, VERDICT, RECONCILIATION, MEDIATION, ARBITRATION, ETC. OR MATTERS WHICH HAVE BEEN RESOLVED AT THE BOARD OF AUDIT COUNCIL.

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P 220813Z NOV 93
FM AMEMBASSY SEUL
TO SECSTATE WASHDC PRIORITY 1126
INFO TREASURY WASHDC
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UNCLAS SECTION 05 OF 08 SEUL 11243

USDOC FOR 4430/IEP/OPB/EAP/JDONIUS

TREASURY FOR OASIA/MBRETTSCHEIDER

DEPARTMENT FOR EAP/K - RICHARDSON AND ZUMWALT

E.O. 12356: N/A

STATE PASS USDA ELECTRONICALLY FOR FAS/ITP HEMPHILL

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8. MATTERS WHICH ARE UNDER REVIEW BY THE BUSINESS
REGULATIONS REVIEW COMMITTEE PROVIDED UNDER THE SPECIAL
ACT FOR EASING BUSINESS REGULATIONS, OR BUSINESS
GRIEVANCES THAT HAVE BEEN PROCESSED.

9. MATTERS RELATING TO PERSONNEL ACTION OF GOVERNMENT AND
OTHER EMPLOYEES.

10. MATTERS RELATING TO THE BUSINESS OF THE COUNCIL.

11. MATTERS DEEMED BY THE COUNCIL AS INAPPROPRIATE TO BE
HANDLED AS GRIEVANCES OF THE GENERAL PUBLIC.

12. OTHER MATTERS PRESCRIBED BY PRESIDENTIAL DECREE.

(11) FUNCTIONS OF THE COUNCIL ARE AS FOLLOWS.

1. CONSULTATION, INVESTIGATION AND PROCESSING GRIEVANCES OF
THE GENERAL PUBLIC.
2. RECOMMENDATION FOR CORRECTIVE ACTION UPON A FINDING OF
VIOLATION OF THE LAW OR INAPPROPRIATE ACTION, AS REVEALED
BY INVESTIGATION OF GRIEVANCES OF THE GENERAL PUBLIC.
3. RECOMMENDATION OR SUGGESTION FOR IMPROVEMENT OF
ADMINISTRATIVE PROCEDURES AND MANAGEMENT.
4. REQUEST FOR A REPORT OF ACTION TAKEN BY ADMINISTRATIVE
AGENCIES ON COUNCIL RECOMMENDATION.

ARTICLE 17. COMPOSITION OF COUNCIL

(1) THE COUNCIL SHALL CONSIST OF FROM 5 TO 7 MEMBERS,
INCLUDING THE CHAIRPERSON.

(11) THE MEMBERS SHALL BE APPOINTED, AS PROVIDED BY
PRESIDENTIAL DECREE, FROM THOSE RECOMMENDED BY NOTED
SOCIAL ORGANIZATIONS ON THE BASIS OF THEIR PUBLIC
CONFIDENCE AND RESPECT AND DIVERSITY IN KNOWLEDGE AND
EXPERIENCE, OR, FROM AMONG THOSE WHO ARE SERVING OR HAVE
SERVED IN THE GOVERNMENT AT A POSITION OF CLASS THREE OR
ABOVE, AS APPOINTED BY THE PRESIDENT.

(11) THE TENURE OF THE REGULAR COUNCIL MEMBERS SHALL BE THREE
YEARS AND CAN BE REPEATED ONCE. TENURE FOR COUNCIL
MEMBERS WHO ARE GOVERNMENT EMPLOYEES SHALL TERMINATE
UPON TERMINATION OF THE ASSIGNMENT.

ARTICLE 18. COUNCIL MEMBER'S GUARANTEE OF POSITION

MEMBERS OF THE COUNCIL SHALL NOT BE SEPARATED FROM THEIR
POSITION AGAINST THEIR WILL UNLESS FALLING UNDER ANY OF THE
FOLLOWING PROVISIONS.

1. A SENTENCE OF IMPRISONMENT FOR ONE YEAR OR MORE.
2. PROLONGED ABSENCE FROM DUTY BECAUSE OF ILLNESS .
3. ANY OF THE PROVISIONS IN ARTICLE 19.

ARTICLE 19. PROHIBITION FROM ENGAGING IN OTHER BUSINESS

COUNCIL MEMBERS SHALL BE PROHIBITED FROM BEING ENGAGED IN THE
POSITIONS ENUMERATED BELOW.

1. MEMBER OF THE NATIONAL ASSEMBLY AND LOCAL ASSEMBLIES
2. MEMBER OF POLITICAL PARTYS
3. OFFICER OR STAFF OF AN ORGANIZATION OR CORPORATION HAVING
SPECIFIC INTEREST WITH ADMINISTRATIVE AGENCIES.

ARTICLE 20. QUORUM

THE MEETING OF THE COUNCIL SHALL RESOLVE MATTERS WITH THE
CONSENT OF TWO-THIRDS OF THE ON-BOARD MEMBERS

ARTICLE 21. APPLICATION OF PENALTY EQUAL TO GOVERNMENT EMPLOYEES

PENALTIES TO BE IMPOSED ON COUNCIL MEMBERS WHO ARE NOT
GOVERNMENT EMPLOYEES SHALL BE EQUAL TO THOSE APPLICABLE TO
GOVERNMENT EMPLOYEES.

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-----07AFD9 220814Z /38

P 220813Z NOV 93
FM AMEMBASSY SEUL
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INFO TREASURY WASHDC
USDOC WASHDC

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USDOC FOR 4430/IEP/OPB/EAP/JDONIUS

TREASURY FOR OASIA/MBRETTSCHEIDER

DEPARTMENT FOR EAP/K - RICHARDSON AND ZUMWALT

E.O. 12356: N/A

STATE PASS USDA ELECTRONICALLY FOR FAS/ITP HEMPHILL

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ARTICLE 22. SPECIALISTS

(I) THE CHAIRPERSON, IF HE DEEMS IT NECESSARY FOR THE CONDUCT OF THE INVESTIGATION AND RESEARCH OF BUSINESS RELATED TO THE COUNCIL, MAY ESTABLISH POSITIONS FOR SPECIALISTS TO WORK FOR THE COUNCIL.

(II) THE SPECIALISTS PROVIDED FOR IN THE PRECEDING PARAGRAPH ONE SHALL BE APPOINTED BY THE CHAIRPERSON

SECTION 2. INVESTIGATION AND PROCESSING OF GRIEVANCE APPLICATIONS

ARTICLE 23. APPLICATION FOR GRIEVANCE

(I) ANYONE MAY MAKE A GRIEVANCE APPLICATION TO THE COUNCIL, EITHER DIRECTLY OR BY A PERSON ACTING ON HIS OR HER BEHALF.

(II) APPEALS FOR GRIEVANCE SHALL BE SUBMITTED TO THE COUNCIL IN WRITING, DESCRIBING THE FOLLOWING ITEMS, EXCEPT FOR CASES WHICH CANNOT BE MADE IN WRITING, FOR WHICH AN ORAL APPLICATION MAY BE SUBSTITUTED.

1. NAME AND ADDRESS OF APPLICANT (IN CASE OF LEGAL ORGANIZATION OR ASSOCIATION, THE TITLE OF THE ORGANIZATION, BUSINESS ADDRESS AND NAME OF REPRESENTATIVE).
2. INTENT OF AND REASONS FOR APPLICATION AND FACTS THAT HAVE CAUSED THE GRIEVANCE.
3. OTHER MATTERS PRESCRIBED BY PRESIDENTIAL DECREE.

ARTICLE 24. INVESTIGATION OF THE COUNCIL

(I) THE COUNCIL SHALL INITIATE, WITHOUT DELAY, THE NECESSARY INVESTIGATION OF GRIEVANCES THAT ARE FILED, EXCEPT FOR THE FOLLOWING CASES.

1. INSTANCES WHICH FALL UNDER ANY OF THE PROVISIONS IN PARAGRAPH 1, ARTICLE 16 OF THE LAW.

2. INSTANCES IN WHICH THE APPLICANT HAS NO INTEREST IN THE CASE.

3. ITEMS FOR WHICH ONE YEAR HAS ELAPSED SINCE THE OCCURRENCE OF THE GRIEVANCE, EXCEPT FOR CASES THAT THE COUNCIL DEEMS IT APPROPRIATE TO INVESTIGATE.

4. ITEMS WHICH ARE CONSIDERED BY THE COUNCIL AS UNTRUE OR LACK LEGITIMATE CAUSE.

5. OTHER ITEMS WHICH THE COUNCIL DEEMS INAPPROPRIATE TO INVESTIGATE.

(II) THE COUNCIL MAY DISCONTINUE INVESTIGATION OF A CASE IN PROGRESS WHEN IT DEEMS THERE IS NO MERIT IN FURTHER INVESTIGATION.

(III) THE COUNCIL SHALL NOTIFY THE APPLICANT, WITHOUT DELAY, WHEN IT HAS DECIDED NOT TO INVESTIGATE AN APPEAL OR WHEN IT DECIDES TO DISCONTINUE AN INVESTIGATION, AS PROVIDED FOR IN THE PROVISIONS OF PARAGRAPH (I) ABOVE, INCLUDING THE JUSTIFICATION FOR THE ACTION.

ARTICLE 25. METHODS OF INVESTIGATION

(I) THE COUNCIL, IN CONDUCTING INVESTIGATIONS PROVIDED FOR IN ARTICLE 24 OF THE LAW MAY, IF DEEMED NECESSARY, TAKE THE FOLLOWING ACTIONS.

1. REQUEST RELEVANT GOVERNMENT AGENCIES FOR EXPLANATIONS, DATA, OR DOCUMENTS.
2. REQUEST PERSONAL APPEARANCES BY AND OPINIONS FROM THE APPLICANT, INTERESTED PARTIES, REFERENCES, AND EMPLOYEES.
3. COMMISSION APPRAISALS.

(II) THE COUNCIL MAY, IF DEEMED NECESSARY FOR THE PERFORMANCE

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----- 22/0916Z A2 DDK (TOTAL COPIES: 012)
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P 220813Z NOV 93
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USDOC WASHDC

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USDOC FOR 4430/IEP/OPB/EAP/JDONIUS

TREASURY FOR OASIA/MBRETTSCHEIDER

DEPARTMENT FOR EAP/K - RICHARDSON AND ZUMWALT

E.O. 12356: N/A

STATE PASS USDA ELECTRONICALLY FOR FAS/ITP HEMPHILL

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OF ITS BUSINESS, ASSIGN ITS OFFICIALS TO CONDUCT A
PHYSICAL SURVEY OF THE GOVERNMENT AGENCIES INVOLVED OR
HAVE STATEMENTS DELIVERED BY THE APPLICANT, INTERESTED
PARTIES OR REFERENCES AT A DESIGNATED LOCATION, AS
PROVIDED FOR BY THE PRESIDENTIAL DECREE.

(11) IN CONDUCTING THE BUSINESS DESCRIBED IN PARAGRAPH (11)
ABOVE, RESPONSIBLE OFFICIALS SHALL PRESENT THEIR
CREDENTIALS DEMONSTRATING THEIR AUTHORITY TO THE PARTIES
CONCERNED.

(1V) HEADS OF GOVERNMENT AGENCIES SHALL BE OBLIGATED TO
RESPOND IN GOOD FAITH TO REQUESTS AND INVESTIGATIONS OF
THE COUNCIL PROVIDED FOR PARAGRAPHS (1) AND (11) ABOVE,
AND SHALL PROVIDE FULL COOPERATION.

ARTICLE 26. RECOMMENDING CORRECTIVE ACTION AND RENDERING
OPINIONS

(1) THE COUNCIL MAY, IF IT DEEMS THAT AN INVESTIGATION
CONDUCTED PURSUANT TO THE ARTICLE 25 OF THE LAW DISCLOSES
SUFFICIENT GROUND FOR VIOLATION AND/OR INAPPROPRIATE
ACTION ON THE PART OF A GOVERNMENT AGENCIES, RECOMMEND
APPROPRIATE CORRECTIVE ACTION BE TAKEN BY THE HEAD OF THE
AGENCY.

(11) THE COUNCIL MAY, IF IT DEEMS IT NECESSARY IN THE COURSE
OF INVESTIGATING AND PROCESSING GRIEVANCES FILED BY THE
GENERAL PUBLIC TO IMPROVE LEGISLATION, PROCEDURES OR
POLICIES, RECOMMEND THAT RELEVANT GOVERNMENT AGENCIES

MAKE SUCH REVISIONS OR RENDER ITS OPINION TO THAT EFFECT.

ARTICLE 27. OPINION CONSULTATION

(1) THE COUNCIL MAY, PRIOR TO MAKING A RECOMMENDATION FOR
CORRECTIVE ACTION TO THE HEAD OF AN AGENCY AS PROVIDED
FOR IN PARAGRAPH (1), ARTICLE 26 OF THE LAW, PROVIDE AN
OPPORTUNITY TO THE CONCERNED GOVERNMENT AGENCY, THE
APPLICANT AND INTERESTED PARTIES TO EXPRESS THEIR
OPINIONS.

(11) AN OFFICER OF THE ADMINISTRATIVE AGENCY, APPLICANT, OR
PARTIES INVOLVED IN A CASE MAY PRESENT THEMSELVES AT A
COUNCIL MEETING AND EXPRESS THEIR VIEWS OR PRESENT
RELEVANT DATA.

ARTICLE 28. NOTIFICATION OF ACTION TAKEN, ETC.

(1) AN AGENCY HEAD WHO HAS RECEIVED A RECOMMENDATION OR
OPINION OF THE COUNCIL PROVIDED UNDER ARTICLE 26 OF THE
LAW SHALL RESPECT SUCH ACTION AND SHALL NOTIFY THE
COUNCIL OF ACTION TAKEN ON THE BASIS OF THE
RECOMMENDATION WITHIN 30 DAYS FROM THE DATE OF RECEIPT,
UNLESS DELAY IS OTHERWISE JUSTIFIABLE.

(11) THE COUNCIL SHALL NOTIFY THE APPLICANT OF THE DETAILS OF
A RECOMMENDATION MADE UNDER ARTICLE 26 OF THE LAW OR OF
A NOTIFICATION PROVIDED UNDER PARAGRAPH (1) ABOVE.

ARTICLE 29. PUBLIC ANNOUNCEMENT

THE COUNCIL MAY PUBLICLY ANNOUNCE A RECOMMENDATION MADE UNDER
ARTICLE 26 OR ACTION TAKEN PURSUANT TO ARTICLE 28, PARAGRAPH
(1), OF THE LAW. IN DOING SO, HOWEVER, PRECAUTION SHALL BE
TAKEN TO AVOID THE INFRINGEMENT OF PERSONAL PRIVACY.

ARTICLE 30. PUBLIC DISCLOSURE OF COUNCIL MANAGEMENT

THE COUNCIL SHALL REPORT EACH YEAR TO THE PRESIDENT ON THE
OPERATION OF THE COUNCIL AND DISCLOSE IT TO THE PUBLIC.

ARTICLE 31. ADMINISTRATION

(1) THE COUNCIL SHALL APPOINT AN EXECUTIVE SECRETARY TO CARRY
OUT ADMINISTRATION OF THE COUNCIL. THE POSITION SHALL BE
FILLED BY AN OFFICIAL OF THE MINISTRY OF GOVERNMENT
ADMINISTRATION AS PROVIDED FOR BY THE PRESIDENTIAL DECREE.

(11) MATTERS NECESSARY FOR THE OPERATION OF THE COUNCIL SHALL
BE PRESCRIBED UNDER THE PRESIDENTIAL DECREE.

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FM AMEMBASSY SEUL

TO SECSTATE WASHDC PRIORITY 1129

INFO TREASURY WASHDC

USDOC WASHDC

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USDOC FOR 4430/IEP/OPB/EAP/JDONIUS

TREASURY FOR OASIA/MBRETTSCHEIDER

DEPARTMENT FOR EAP/K - RICHARDSON AND ZUMWALT

E.O. 12356: N/A

STATE PASS USDA ELECTRONICALLY FOR FAS/ITP HEMPHILL

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CHAPTER 5. IMPROVEMENT OF ADMINISTRATION SYSTEMS

ARTICLE 32. PERIODIC REVIEW OF ADMINISTRATIVE REGULATIONS

(1) HEADS OF CENTRAL GOVERNMENT AGENCIES SHALL EXAMINE EACH YEAR ADMINISTRATIVE REGULATIONS SUCH AS AUTHORIZATIONS AND LICENSES CONTROLLED BY THEM AND SERVICES RENDERED TO THE GENERAL PUBLIC.

(11) HEADS OF CENTRAL GOVERNMENT AGENCIES SHALL REVIEW THE NEED FOR ADMINISTRATIVE REGULATIONS AND THEIR EFFICIENCY IN CONJUNCTION WITH THE EXAMINATIONS CONDUCTED AS PROVIDED FOR IN PARAGRAPH (1) ABOVE, AND SHALL WORK OUT A PLAN TO SIMPLIFY DOCUMENTATION REQUIREMENTS AND PROCEDURAL STEPS.

ARTICLE 33. COMPREHENSIVE PLAN FOR IMPROVEMENT OF ADMINISTRATIVE REGULATIONS, ETC.

(1) THE MINISTER OF THE MINISTRY OF GOVERNMENT ADMINISTRATION SHALL ANNUALLY DRAW UP BASIC GUIDELINES FOR IMPROVING ADMINISTRATIVE REGULATIONS AND BUSINESS RELATING TO SERVING THE GENERAL PUBLIC AND SHALL, AFTER OBTAINING THE APPROVAL OF THE PRIME MINISTER, NOTIFY HEADS OF CENTRAL GOVERNMENT AGENCIES.

(11) THE HEADS OF A CENTRAL GOVERNMENT AGENCIES SHALL ESTABLISH AN ADMINISTRATIVE REGULATION IMPROVEMENT PLAN RELEVANT TO THE AGENCY BASED ON THE GUIDELINE PRESCRIBED IN PARAGRAPH (1) ABOVE AND SHALL NOTIFY THE MINISTER OF

THE MINISTRY OF GOVERNMENT ADMINISTRATION OF THE PLAN.

(111) THE MINISTER OF THE MINISTRY OF GOVERNMENT ADMINISTRATION SHALL ESTABLISH A COMPREHENSIVE

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ADMINISTRATIVE REGULATION IMPROVEMENT PLAN BASED ON THE ADMINISTRATIVE REGULATION IMPROVEMENT PLAN SUBMITTED BY EACH GOVERNMENT AGENCY AS PROVIDED IN PARAGRAPH (11) ABOVE. THE COMPREHENSIVE PLAN SHALL BE MADE PUBLIC AFTER REVIEW BY THE CABINET MEETING AND APPROVED BY THE PRESIDENT. THE COMPREHENSIVE PLAN SHALL INCLUDE EVALUATION OF THE PREVIOUS YEAR'S PERFORMANCE FOR IMPROVEMENT OF ADMINISTRATIVE REGULATIONS.

ARTICLE 34. CONFIRMATION, INSPECTION, ETC.

(1) THE MINISTER OF THE MINISTRY OF GOVERNMENT RESERVES THE RIGHT, WHEN IT IS DEEMED NECESSARY FOR THE EFFECTIVE IMPROVEMENT OF ADMINISTRATIVE REGULATIONS, TO CONFIRM AND INSPECT GOVERNMENT AGENCIES WITH REGARD TO THE ADMINISTRATIVE REGULATIONS ADMINISTERED AND PUBLIC SERVICES OFFERED BY GOVERNMENT AGENCIES.

(11) THE MINISTER OF THE MINISTRY OF GOVERNMENT ADMINISTRATION MAY, UPON FINDING IN THE CONFIRMATION AND INSPECTION PROCESS PROVIDED FOR IN PARAGRAPH (1) ABOVE ANY NEGATIVE ACTION OR DEFICIENCY IN CARRYING OUT EFFORTS TO IMPROVE ADMINISTRATIVE REGULATIONS AND SERVING THE GENERAL PUBLIC, RECOMMEND NECESSARY CORRECTIVE ACTION TO THE PRIME MINISTER.

ARTICLE 35. ESTABLISHMENT OF REVIEW COMMITTEE

IN ORDER TO EFFECTIVELY IMPLEMENT THE IMPROVEMENT OF ADMINISTRATIVE REGULATIONS, A REVIEW COMMITTEE MAY BE ESTABLISHED AND PUT INTO OPERATION AS PRESCRIBED BY THE PRESIDENTIAL DECREE.

ADDENDA

THIS LAW SHALL BECOME EFFECTIVE THREE MONTHS FROM THE DATE OF PROMULGATION.

END TEXT.

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DRAFTED BY: EAP/K: JPZUMWALT

APPROVED BY: EAP/K: DEBROWN

EB: RMORFORD

JUSTICE: SCHEMTOB

EUR/RPE: GDELGADO

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PARIS PASS USOECD

E.O. 12356: N/A
TAGS: ETRD EIND EINV OECD KS
SUBJECT: DEC: FORMATION OF WORKING GROUP ON COMPETITION POLICY

1. AS WE DISCUSSED AT THE OCTOBER DEC PLENARY MEETING, THE U.S. SIDE WISHES TO HOLD THE FIRST MEETING OF THE COMPETITION POLICY WORKING GROUP BEFORE THE NEXT PLENARY MEETING SCHEDULED FOR FEBRUARY. EMBASSY IS REQUESTED TO APPROACH THE KOREA FAIR TRADE COMMISSION (KFTC), THE ECONOMIC PLANNING BOARD, AND THE FOREIGN MINISTRY TO SEEK THEIR AGREEMENT TO A MEETING IN MID-JANUARY, AND REPORT REACTIONS.

2. EMBASSY MAY DRAW UPON THE FOLLOWING TALKING POINTS:

-- WE RECALL KOREA'S AGREEMENT IN PRINCIPLE TO THE FORMATION OF A DEC WORKING GROUP ON COMPETITION POLICY.

-- AS WE EXPLAINED IN THE FIRST DEC PLENARY, WE HAVE FOUND THAT WHEN COUNTRIES DEREGULATE THEIR ECONOMIES, ESTABLISHED COMPANIES MAY RESPOND BY SEEKING TO REDUCE COMPETITION. THEREFORE COMPETITION POLICIES BECOME EVEN MORE IMPORTANT AS DEREGULATION POLICIES ARE IMPLEMENTED.

-- IN PARTICULAR, THE UNITED STATES PROPOSES TO DISCUSS FOUR ASPECTS OF KOREA'S COMPETITION POLICY:

-- CERTAIN ASPECTS OF YOUR INTERNATIONAL CONTRACT NOTIFICATION REGULATIONS THAT APPEAR TO BE DISCRIMINATORY OR INAPPROPRIATE;

-- RESTRICTIONS ON PREMIUMS AND OTHER INNOVATIVE MARKETING TOOLS THAT LIMIT THE OPPORTUNITIES FOR NEW TO MARKET COMPANIES;

-- EXEMPTIONS FROM THE KOREAN ANTI-MONOPOLY LAW THAT MAY AFFECT INTERNATIONAL TRADE; AND

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-- KFTC POLICIES WITH RESPECT TO PRIVATE BUSINESS PRACTICES THAT HAVE THE EFFECT OF RESTRICTING COMPETITION BY FOREIGN COMPANIES, SUCH AS GROUP BOYCOTTS AND EXCLUSIONARY ACTIONS BY TRADE ASSOCIATIONS.

-- THESE DISCUSSIONS WILL HELP US MEET THE DEC GOAL OF IMPROVING THE KOREAN BUSINESS CLIMATE TO MAKE KOREA A MORE ATTRACTIVE INVESTMENT SITE FOR FOREIGN INVESTORS.

-- AS YOU KNOW, THE OECD COUNTRIES PERIODICALLY MEET TO DISCUSS COMPETITION POLICY. THEREFORE, BILATERAL DISCUSSIONS UNDER THE DEC WILL ALSO HELP THE UNITED STATES PREPARE FOR CONSIDERING KOREA'S REQUEST TO JOIN THE OECD, BY DEEPENING U.S. UNDERSTANDING OF KOREA'S COMPETITION POLICY.

-- LATER ON WE WILL PROPOSE PRECISE DATES FOR THE FIRST TALKS; WE ARE CONSIDERING THE SECOND OR THIRD WEEK OF JANUARY 1994.

-- (IF ASKED) BY EXEMPTIONS FROM THE ANTI-MONOPOLY LAW, WE ARE REFERRING TO KOREAN LAWS THAT EXEMPT CARTELS FROM THE ANTI-MONOPOLY LAW IN CERTAIN CASES. FOR EXAMPLE, WE WOULD WANT TO EXPLORE YOUR POLICIES AS THEY ARE APPLIED TO THE PETROCHEMICAL INDUSTRY AND OTHER SECTORS.

END TALKING POINTS.

3. PLEASE ALSO SOLICIT FROM THE AMERICAN CHAMBER OF COMMERCE, ITS VIEWS ON THE PROPOSED COMPETITION POLICY AGENDA (AS NOTED ABOVE). WE WOULD APPRECIATE RECEIVING BY DECEMBER 17 A REPORT ON AMCHAM ANALYSIS OF EACH COMPETITION POLICY AGENDA ITEM.

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. cable	re: Labor Minister Outlines Progressive Labor Policy. (4 pages)	11/27/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
International Economic Affairs (William Whyman)
OA/Box Number: 121

FOLDER TITLE:

Korea December, 1993: Vol. 1 [4]

2009-0528-F

vz1533

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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PAGE 01 SEUL 11419 300042Z 045556 S008228
 INFO: K (03) EAP (04) P (01) RA (01) EP (02)
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 ACTION EB-00

INFO LOG-00 AGRE-00 AID-00 AMAD-01 CIAE-00 CTME-00 OASY-00
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TREASURY FOR OASIA/MBRETTSCHEIDER

DEPARTMENT FOR EAP/K - ZUMWALT AND HEIDT

DEPARTMENT FOR EB - A/S TARULLO AND MORFORD

DEPARTMENT FOR L/BA - DENNIS GALLAGHER

STATE PASS USDA ELECTRONICALLY FOR FAS/ITP HEMPHILL

E.O. 12356: N/A
 TAGS: ECON, KS
 SUBJECT: AMCHAM COMMENTS ON ADMINISTRATIVE PRACTICES LEGISLATION

REF: SEUL 11243

1. ECONOFF MET NOVEMBER 23 WITH AMCHAM ADVISORY COMMITTEE ON DEC ADMINISTRATIVE PRACTICES TO DISCUSS THE TEXT OF THE ROKG'S BASIC LAW ON ADMINISTRATIVE REGULATIONS (REFTEL). PARTICIPANTS' PRELIMINARY REACTIONS WERE POSITIVE, THOUGH THEY EXPRESSED CONCERN ABOUT THE VERY GENERAL NATURE OF THE BILL AND SUPPORTED DEC WORK ON A MORE COMPREHENSIVE ADPRAC LAW. THEY AGREED TO COME UP WITH A MORE DETAILED SET OF WRITTEN COMMENTS FOR PUBLICATION IN THE AMCHAM MONTHLY JOURNAL AND TO SOLICIT "CASE STUDY" IDEAS FROM OTHER AMCHAM COMMITTEES. END SUMMARY.

2. GENERALLY, PARTICIPANTS VIEWED THE LEGISLATION AS A STEP FORWARD SINCE KOREA HAS NO ADMINISTRATIVE LAW FRAMEWORK. HOWEVER, ALL POINTED OUT THAT THIS BILL FALLS FAR SHORT OF A FULL-FLEDGED ADPRAC LAW. MANY OF THE TERMS USED IN THIS BILL ARE VAGUE, E.G. ARTICLE 11, "HEADS OF ADMIN AGENCIES SHALL DETERMINE OBJECTIVELY..." OR ARTICLE 9, "GOVERNMENT AGENCIES SHALL EXERT EFFORTS TO PREVENT THE INFRINGEMENT OF INFORMATION SUBMITTED BY THE GENERAL PUBLIC." IT IS UNCLEAR HOW THIS LEGISLATION WOULD BE ENFORCED.

3. PARTICIPANTS FOCUSED IN PARTICULAR ON THE ROLE OF THE COUNCIL (CHAPTER 4). ALL AGREED THAT THE EFFECTIVENESS OF THE LEGISLATION AS A WHOLE WOULD DEPEND ON THE COMPOSITION OF THE COUNCIL AND THE STRENGTH OF ITS MEMBERS, PARTICULARLY ITS

CHAIRMAN. THEY WERE CONCERNED THAT ARTICLE 16, ITEM 10, EXCLUDES THE REVIEW BY THE COUNCIL OF MATTERS RELATING TO THE BUSINESS OF THE COUNCIL. THEY AGREED WITH THE PROVISIONS OF ITEM 7, SINCE OTHERWISE THE COUNCIL WOULD HAVE THE POWER TO REVIEW DECISIONS OF THE JUDICIARY.

4. AN ATTORNEY PRESENT AGREED TO WRITE UP A MORE DETAILED

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 CRITIQUE OF THE CURRENT LEGISLATION TO PASS TO US AND FOR PUBLICATION IN THE AMCHAM MONTHLY JOURNAL.

5. THE ADVISORY COMMITTEE STRONGLY ENDORSED THE IDEA OF FOCUSING THE DEC WORK ON THE OVERALL ADMINISTRATIVE LAW PROCESS TO ENSURE THAT THE PLANNED 1995 ADPRAC BILL FITS WITH INTERNATIONAL NORMS AND ISN'T COUNTERPRODUCTIVE. PARTICIPANTS ALSO LIKED THE IDEA OF USING EXAMPLES OF HOW ADMINISTRATIVE PRACTICES WORK/HELP, BUT SUGGESTED THAT WE USE A VARIETY OF SECTORS, NOT JUST TAXATION OR INVESTMENT. THEY AGREED TO ASK OTHER AMCHAM COMMITTEES ON WHICH THEY SIT FOR POSSIBLE CASE STUDIES. EMBASSY WILL FOLLOW UP WITH AMCHAM TO PUT TOGETHER A LIST OF SUGGESTED "CASES."

6. THE LEGISLATION IS CURRENTLY PENDING IN THE NATIONAL ASSEMBLY, WHICH IS NOW COMPLETELY DEADLOCKED OVER THE ISSUE OF WHETHER TO INTRODUCE UNRELATED BILLS ON NATIONAL SECURITY AND POLITICAL REFORM (NOT TO MENTION LIBERALIZATION OF THE RICE MARKET). THE SENIOR LEGISLATIVE SPECIALIST FOR THE ADMINISTRATIVE AFFAIRS COMMITTEE TOLD ECONOFF NOVEMBER 29 THAT THE BASIC LAW ON ADMINISTRATIVE REGULATIONS WOULD PROBABLY PASS ONCE THE DEADLOCK IS BROKEN. HE REPORTED ONLY ONE SUBSTANTIVE POINT OF DISAGREEMENT: THE OPPOSITION WANTS TO CREATE AN "OMBUDSMAN" AT THE PRIME MINISTER'S OFFICE, WHILE THE RULING

PARTY INSISTS THAT THE PROPOSED GRIEVANCE COUNCIL IS EQUIVALENT TO AN OMBUDSMAN. THE NATIONAL ASSEMBLY SESSION IS SCHEDULED TO FINISH ON DECEMBER 18. KARTMAN

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PAGE 01 SEUL 11350 260849Z 039595 S069180
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TREASURY FOR INT. TAX COUNSEL C. COPE AND OASIA/MBRETTSCHNEIDER

DEPARTMENT FOR EB A/S TARULLO AND EAP/K - ZUMWALT AND HEIDT

E.O. 12356: N/A
TAGS: EFIN, KS
SUBJECT: DEC: PROPOSED AGENDA FOR DECEMBER 1-2 MEETING ON TAX
ISSUES

KARTMAN

1. THE MINISTRY OF FINANCE HAS PROPOSED AN AGENDA INCLUDING A
NUMBER OF ISSUES THE ROKG WOULD LIKE TO RAISE DURING THE
DECEMBER 1-2 MEETING IN WASHINGTON (PARA 3BELOW). A LIST OF
ROKG OFFICIALS PARTICIPATING IN THE MEETING FOLLOWS IN PARA 4.

2. ACTION REQUESTED: PLEASE ADVISE IF YOU HAVE ANY COMMENTS

ON THE ROKG'S PROPOSED AGENDA.

3. PROPOSED AGENDA:

(1) ISSUES OF INTEREST TO THE U.S. SIDE

(2) ISSUES OF INTEREST TO THE KOREAN SIDE

A. TRANSFER PRICING (TEMPORARY REGULATIONS INTERPRETING THE
CHANGE IN SECTION 482 OF IRC)

-- COMPARABLE PROFIT METHOD

-- PROFIT SPLIT METHOD

-- BURDEN OF PROOF

-- SAFE HARBOR

B. EARNINGS STRIPPING RULES (SECTION 163(J) OF THE IRC)

C. DURATION OF IRS AUDITS AND CHANGES OF INVESTIGATORS

D. SANCTIONS AGAINST FAILURE TO COMPLY WITH INFORMATION
REQUIREMENTS (REGULATIONS FOR SECTION 6038 (A) OF THE IRC)

E. ISSUES RELATED TO ADVANCE PRICING AGREEMENT

F. SEPARATE DUMPING AND TRANSFER PRICING INVESTIGATIONS
AGAINST ONE COMPANY

4. ROKG DELEGATION TO THE TAX MEETING

HEAD OF DELEGATION: UHM RAK YONG, DIRECTOR GENERAL, TAX
AFFAIRS BUREAU, MINISTRY OF FINANCE

DELEGATES: HUH NOH CHOONG, FINANCIAL ATTACHE, KOREAN

SEUL 11350 260849Z 039595 S069180
EMBASSY (NOTE: A SECOND EMBASSY OFFICER
MAY ALSO PARTICIPATE)

CHOI BYUNG CHUL, DIRECTOR, INTERNATIONAL
TAX DIVISION I, NATIONAL TAX ADMINISTRATION

CHOI KYONG LIM, DEPUTY DIRECTOR,
INTERNATIONAL TRADE DIVISION II, MINISTRY
OF FOREIGN AFFAIRS

PARK JAE WAN, DEPUTY DIRECTOR,
INTERNATIONAL TAX DIVISION, MINISTRY OF
FINANCE

LEE JEON HWAN, DEPUTY DIRECTOR,
INTERNATIONAL TAX DIVISION I, NATIONAL TAX
ADMINISTRATION

PARK YUN JUN, DEPUTY DIRECTOR,
INTERNATIONAL TAX DIVISION II, NATIONAL
TAX ADMINISTRATION

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004a. cable	re: Ambassador Sun Meeting with EB Assitant Secretary Tarullo. (1 page)	12/01/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
International Economic Affairs (William Whyman)
OA/Box Number: 121

FOLDER TITLE:

Korea December, 1993: Vol. 1 [4]

2009-0528-F

vz1533

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
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C. Closed in accordance with restrictions contained in donor's deed of gift.

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RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

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004b. cable	re: Courtesy Call. (1 page)	11/30/1993	P1/b(1)

COLLECTION:

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International Economic Affairs (William Whyman)
OA/Box Number: 121

FOLDER TITLE:

Korea December, 1993: Vol. 1 [4]

2009-0528-F

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004c. cable	re: Further Thoughts on Korea's Membership in the OECD. (2 pages)	12/03/1993	P1/b(1)
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