Case Number: 2009-0528-F

FOIA MARKER

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Folder Title:
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. itinerary	Phone Number. [partial] (1 page)	10/1993	P6/b(6)
002. paper	Korea and the OECD. (3 pages)	10/15/1993	P1/b(1)
003. paper	Administrative Procedures and Rulemaking. (2 pages)	10/15/1993	P1/b(1)
004. briefing paper	October Meeting in Seoul of the U.S.-Korea Dialogue for Economic Cooperation. (3 pages)	09/29/1993	P1/b(1)
005. cable	re: Dialogue for Economic Cooperation. (6 pages)	09/18/1993	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 [5]

2009-0528-F
vz1534

RESTRICTION CODES

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

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C. Closed in accordance with restrictions contained in donor's deed of gift.
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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U.S.-KOREA DIALOGUE FOR ECONOMIC COOPERATION

OCTOBER 20-21, SEOUL, KOREA

TABLE OF CONTENTS

SCHEDULE FOR THE VISIT TO SEOUL OF
DANIEL K. TARULLO
ASSISTANT SECRETARY OF STATE
FOR ECONOMIC AND BUSINESS AFFAIRS

Tuesday, October 19

13:15 Arrive Kimpo (nw 29) met by John Hoog, Minister Counselor for Economic Affairs

17:00 Delegation meeting (Hoog residence -- #8 Embassy Compound I))

18:00 Reception for DEC delegation hosted by Charge Chuck Kartman

Wednesday, October 20

07:30 AMCHAM breakfast meeting, Westin Chosun Hotel

09:00 Courtesy call on Foreign Minister Han Seung-Joo

09:15 Call on Vice Foreign Minister Hong (20-30 minutes)

10:30 Call on Blue House Senior Economic Advisor Park Jae-Yoon (tentative)

Lunch TBD

13:40 Call on Assistant Secretary Son (MOFA Room 806)

14:00 Opening of DEC Plenary (Room 810)
-- Introduction of both delegations
-- Opening statements (Korea/U.S.)

Deregulation Issues
1) Investment
2) Administrative practices and rule-making
3) Taxation
4) Competition policy
5) Implementation of trade measures
6) Issues referred to related forums

19:00 Dinner hosted by the A/M Son, Shilla Hotel, Marronierr Room (3rd. Floor)

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Thursday, October 21

09:30	Resumption of DEC Meeting (Continued discussion on deregulation issues, if necessary) Economic Cooperation Issues 1. Industrial cooperation 2. Science and technology cooperation 3. Mutual exemption of social security tax 4. Labor issues 5. Mutual recognition of test results 6. Surety bond requirement for construction contracts 7. Global cooperation
12:00	Conclusion of DEC Meeting -- Summary of the discussion -- Future steps -- Concluding remarks
14:00	Working-level Meeting (if necessary)
13:00	Lunch and Briefing of AMCHAM, Hilton Hotel
17:20	Depart Seoul for Tokyo on UA 826 (ETA 7:30)

Embassy Control Officer:	Steve Wickman	397-4320 (O)
		[redacted] (H) [001]
Embassy Switchboard:		397-4114
Economic Section FAX		722-1419
Lotte Hotel		771-1000 (T)
		752-3758 (F)

ROKG Proposed Agenda

(With U.S. Revisions)

I. opening statements

II. Issues related to economic deregulation

a. investment
b. administrative practices and rule-making
c. taxation
   1. korea's tax system
   2. u.s. taxation on foreign business
d. competition policy
e. implementation of trade measures
   1. anti-dumping investigations
   2. section 301
   3. fmc investigations of foreign maritime practices
f. issues referred to related forums
   1. import clearance issues
      (pei import clearance subgroup)
   2. financial deregulation
      (financial policy talks)

III. issues related to economic cooperation

a. industrial cooperation
b. science and technology cooperation
c. mutual exemption of social security tax
d. labor/industrial relations issues
e. bank supervision
f. mutual recognition of test results
g. surety bond requirement for construction contracts
h. global cooperation

IV. conclusion
a. plans for the future
   --establishment of counterpart groups
b. concluding remarks

U.S.-Korea Dialogue for Economic Cooperation
October 20-21, Seoul, Korea

Preliminary U.S. Delegation List

Delegation Head

Daniel K. Tarullo
Assistant Secetary for Economic and Business Affairs
Department of State

Delegation Members

David E. Brown
Director, Office of Korean Affairs
Bureau of East Asian and Pacific Affairs
Department of State

Richard A. Morford
Special Advisor, Bureau of Economic and Business Affairs
Department of State

Kathleen Harrington
Coordinator for Commerical Affairs
Bureau of East Asian and Pacific Affairs
Department of State

Charles Cope
Associate International Tax Counsel
Department of Treasury

David Moran
Chief, Developing Country and Trade Organization Division
Bureau of Economic and Business Affairs
Department of State

Peter Collins
Director for Korea
Office of the U.S. Trade Representative

James P. Zumwalt
Assistant Director for Economics
Office of Korean Affairs
Department of State

Alan Hemphill
Team Leader, Asia Team
Foreign Agriculture Service
Department of Agriculture

Martha Brettschneider
Korea Desk Officer
Department of Treasury

Jeff Donius
Korea Desk Officer
Department of Commerce

U.S. Embassy Seoul Delegation Members

U.S.-KOREA DIALOGUE FOR ECONOMIC COOPERATION

OCTOBER 20-21, 1993

U.S. OPENING STATEMENT

GOOD AFTERNOON ASSISTANT MINISTER SUN AND OTHER MEMBERS OF THE KOREAN DELEGATION. IT IS MY PLEASURE TO LEAD THE U.S. DELEGATION TO SEOUL FOR THE SECOND PLENARY SESSION OF THE DIALOGUE FOR ECONOMIC COOPERATION. WE ARE CONFIDENT THAT THIS MEETING WILL CONTINUE THE PROGRESS THAT WE BEGAN LAST MONTH IN WASHINGTON.

BEFORE I BEGIN MY PREPARED REMARKS, HOWEVER, LET ME OFFER OUR CONDOLENCES FOR THE TRAGIC DEATHS OF DIRECTOR GENERAL KO, DIRECTOR JUNG, AND OTHER MEMBERS OF THE STAFF OF THE KOREAN FAIR TRADE COMMISSION.

WITH SUCH LARGE AND IMPRESSIVE DELEGATIONS IN ATTENDANCE ON BOTH SIDES, I THINK IT IS IMPORTANT TO BEGIN BY REITERATING WHY WE ARE HERE TODAY. OUR MANDATE IN THIS EFFORT IS TO CARRY OUT A BOLD, FAR REACHING DIALOGUE WITH THE GOAL OF MOVING THE U.S.-KOREA ECONOMIC RELATIONSHIP FORWARD TO A NEW LEVEL. WE BELIEVE THAT IN ORDER TO JUDGE THIS DIALOGUE A SUCCESS, IT MUST RESULT IN MEANINGFUL IMPROVEMENT IN THE REGULATORY AND BUSINESS ENVIRONMENT FOR OUR FIRMS SO THAT WE CAN HONESTLY SAY THAT THE CONDITIONS FOR ECONOMIC COOPERATION HAVE IMPROVED.

AT OUR FIRST MEETING IN SEPTEMBER, WE EXCHANGED INFORMATION ON DEREGULATION EFFORTS UNDERWAY AS PART OF KOREA'S FIVE-YEAR

"NEW ECONOMY" PLAN. IN ADDITION, WE BRIEFED YOU ON SOME OF THE REGULATORY DIFFICULTIES U.S. FIRMS FACE IN KOREA, AND YOU OUTLINED SOME OF THE PROBLEMS KOREAN FIRMS HAVE ENCOUNTERED IN AMERICA. AFTER THE CONCLUSION OF THE MEETING, WE EXCHANGED LISTS OF QUESTIONS DESIGNED TO CLARIFY AND EXPAND ON POINTS RAISED. WE THANK YOU FOR YOUR GOOD-FAITH EFFORTS TO ANSWER OUR ADMITTEDLY LONG LIST OF QUESTIONS, AND HOPE YOU FOUND OUR RESPONSES TO YOUR QUESTIONS HELPFUL.

WE BELIEVE THAT OUR PRINCIPAL TASK FOR THIS MEETING IS TO MOVE BEYOND THE INFORMATION-GATHERING STAGE TO AGREE ON A WORKPLAN FOR THE DIALOGUE. OUR WORKPLAN SHOULD LIST CLEARLY THE DEREGULATORY AND COOPERATIVE TOPICS WE WILL PURSUE, AS WELL AS A ROADMAP FOR ACHIEVING THE STATED GOALS OF THIS DIALOGUE FOR EACH TOPIC. WE HAVE PROVIDED EACH OTHER WITH OUR IDEAS ON TOPICS TO BE PURSUED, AND AS WE MOVE DOWN THE AGENDA TODAY AND TOMORROW, I PROPOSE THAT WE AGREE ON A STRUCTURE AND PROCESS FOR ADDRESSING EACH.

IN ADDITION, BECAUSE OF THE IMPORTANCE OF INVESTMENT TO THE ECONOMIC INTERESTS OF BOTH KOREA AND THE U.S., WE BELIEVE IT IS IMPORTANT TO CONTINUE THE SUBSTANTIVE DISCUSSION ON INVESTMENT PROCEDURES AND REGULATIONS BEGUN AT THE FIRST PLENARY SESSION. WE NEED TO GIVE THOUGHT ON HOW TO BEST STRUCTURE OUR SUBSEQUENT INVESTMENT DISCUSSIONS AND ON WHICH AREAS WE SHOULD FOCUS OUR EFFORTS.

AT THE CONCLUSION OF THIS MEETING, OUR EFFORTS SHOULD BEGIN

TO ACCELERATE INTO A MORE INTENSIVE AND SUBSTANTIVE STAGE AS EXISTING GROUPS AND NEW COUNTERPART GROUPS BEGIN TO EXAMINE AGREED-UPON ISSUES. WE WILL NEED TO KEEP IN CLOSE CONTACT THROUGHOUT THE UPCOMING PERIOD SO THAT WE WILL HAVE A STRONG RECORD OF ACHIEVEMENT TO POINT TO BY THE TIME OF OUR NEXT PLENARY.

INVESTMENT

Issue

U.S. companies continue to face barriers to investing in Korea. Service and consumer firms, in particular, need to invest to sell to Korea's growing market. Although Korea is attempting to improve its investment climate, notifications are still approvals, sectors of interest to U.S. companies remain closed, and the environment is inhospitable, either because of lack of national treatment e.g. land acquisition, or national treatment which is so poor that it remains a disincentive to investment, e.g. IPR and taxation.

Background

At the first DEC meeting, the investment discussion focused on Korea's investment approval system and its sectoral liberalization plan. An overarching theme was that the ROKG should not measure improvements against past investment measures but against the measures in alternative investment locales.

For the second DEC meeting, we propose to divide the investment discussion into four parts:

- the notification/approval process;
- sectoral liberalization;
- the investment environment; and
- the work program.

Our main objectives for this second are to clarify reforms the ROKG plans for the near term, so that we can get our thoughts into the process, and to get agreement on how to structure our follow-on work. A separate paper discusses OECD instruments which affect investment.

Talking Points

<u>Notification/Approval Process</u>

- At the first DEC meeting, the ROKG acknowledged the lack of a formal appeal process and confirmed that notification required an affirmative reply from the Ministry of Finance, even if the specified time period for comment had passed. In response to U.S. questions, however, the ROKG concluded that "If no notice is given as to whether the notification has been accepted within the processing period, it shall be regarded that the notification has been accepted on the date after the expiration of each processing period." How do you clarify this seeming contradiction?

- o The criteria for refusing an investment under the Foreign Capital Inducement Act (FCIA)
  - -- in case of causing trouble to the safety of the nation and the maintenance of public order
  - -- in case of causing a negative effect upon the sound development of the economy;
  - -- in case of violating the laws of the Republic of Korea.
- o The enforcement decree, however, further lays out specific reasons for requiring approval and hence allowing refusal:
  - -- projects specially supported by the government
  - -- projects which consume excessive levels of energy or whose raw materials are disproportionately imported;
  - -- projects producing heavy pollution;
  - -- projects considered extravagant or resulting in excessive consumption;
  - -- projects affecting the livelihood of farmers and fishermen;
  - -- other projects whose industry is in the initial development stage and for which protection is deemed necessary under industrial policy.

  These categories give considerable scope for refusals. The OECD National Treatment commitment lists "need to maintain public order, to protect essential security interests, and to fulfill commitments relating to international peace and security." Nowhere is there a mention of the economy. Is Korea contemplating revising these criteria?
- o The only appeal mechanism appears to be "the foreign investor may ask relevant ministries to review the matter and submit opinions to the MOF." Since other ministries may be the reason for the refusal in the first place, a clear appeal mechanism would be useful.
- o Amcham believes documentation requirements are excessive. (Embassy to supply details.)

<u>Sectoral Liberalization</u>

- o At the last meeting, we expressed concern that domestic firms were to get an advantage in investing before foreign firms in newly opened areas. Minister Suh offered to provide a list of sectors scheduled for domestic liberalization along with the date of opening to foreign firms. Is this available?

- To our written question, the ROKG responded that MOF cannot make binding rulings on KSIC categories. "The Office of Statistics makes a final ruling, after consulting with the relevant ministries." Since definitions under the KSIC are open for interpretation and some categories are closed while others are open, an advance ruling is critical. How can a ruling on KSIC classification be obtained in advance?

- The ROKG provided an number of responses to questions on specific KSIC numbers. Is there a published definition of what specific KSIC numbers include?

<u>The Investment Environment</u>

- At the last meeting we discussed the many issues that affect investment decisions and operation. These included land acquisition, finance, import clearance, visas, taxation, intellectual property protection and the ability to provide comment on rulemaking and appeal administrative judgments.

- Since then, we have received your written responses. We will be discussing a number of these subjects separately.

- We will be interested in whether U.S. firms receive national treatment -- the standard in the OECD and the commitment in our bilateral investment agreement. We will also point out areas where we believe treatment, even if it is as good as that given to national firms, is a disincentive to foreign investment.

<u>The Work Plan</u>

- Discussions in the plenary have been useful in presenting general issues. We suggest continuing to discuss investment in the plenary. In addition, we believe that experts should look into specific areas of investor concern. These could be officials from capitals or embassy personnel.

- We suggest exchanging specific issues for examination after this meeting. These could include subjects such as sectoral liberalization, land acquisition, and investment approval procedures. Meetings should then be scheduled to discuss these issues.

- It is clear that we have a lot of ground to cover on investment issue. Some changes are planned before the end of the year. We need to make sure these are discussed in advance. We should intensify our discussion of investment starting immediately.

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SUBJECT: ROKG ANNOUNCES FOREIGN INVESTMENT LIBERALIZATION PLAN

REF: A) SEOUL 5873 B) SEOUL 2419

1. (U) ON JUNE 22 THE ROK MINISTRY OF FINANCE UNVEILED ITS PROMISED TIMETABLE FOR OPENING 176 INDUSTRIAL SECTORS TO FOREIGN INVESTMENT BY 1997. THE TIMETABLE WILL BE INCORPORATED IN THE KIM YOUNG-SAM ADMINISTRATION'S NEW FIVE YEAR PLAN RELEASED ON JULY 2 (REF A). A TOTAL OF 133 SECTORS WILL BE FULLY OPENED TO FOREIGN INVESTMENT, RANGING FROM "HUNTING AND GATHERING" TO ISSUANCE OF CREDIT CARDS. RESTRICTIONS ON 43 SECTORS CURRENTLY LIMITED TO JOINT VENTURE ARRANGEMENTS WITH KOREAN PARTNERS WILL ALSO BE LIFTED. MOF'S LIST OF SECTORS AND TIMETABLE FOR OPENING TO FOREIGN INVESTMENT FOLLOW IN PARA 5.

2. (U) OVER ONE HALF OF THE INDUSTRIAL SECTORS IDENTIFIED BY THE USG IN PEI INVESTMENT WORKING GROUP CONSULTATIONS (REF B) WERE INCLUDED IN MOF'S LIST. THE LIST INCLUDES MANY OF THE TRANSPORTATION SECTOR INDUSTRIES IDENTIFIED BY THE USG IN PEI TALKS. ONLY ONE FINANCIAL SERVICES SECTOR INDUSTRY IDENTIFIED BY THE USG AS A PRIORITY IS INCLUDED. THE LIST OF USG PRIORITY SECTORS FOR LIBERALIZATION IDENTIFIED IN PEI INVESTMENT TALKS

IN MARCH 1993 FOLLOWS IN PARA 6, TOGETHER WITH DATE OF OPENING FOR INDIVIDUAL SECTORS.

3. (U) FOREIGN INVESTMENT IS CURRENTLY RESTRICTED IN A TOTAL OF 274 INDUSTRIAL SECTORS IN KOREA, INCLUDING 50 SECTORS IN WHICH FOREIGN INVESTORS MAY PARTICIPATE ONLY THROUGH JOINT VENTURE ARRANGEMENTS. ACCORDING TO MOF'S PLAN, BY 1997 ONLY 98 SECTORS WILL REMAIN CLOSED TO FOREIGN INVESTORS, INCLUDING 7 SECTORS LIMITED TO JOINT VENTURE ARRANGEMENTS.

5. (U) MOF'S TIMETABLE FOR LIBERALIZATION OF INDUSTRIAL SECTORS TO FOREIGN INVESTMENT FOLLOWS:

BEGIN LIST

JULY 1, 1993 (16 INDUSTRIES)

KSIC CODE SECTORS

(AGRICULTURE, FISHERIES, FORESTRY AND MINING)

01224 RAISING OF BEES
01226 PROD. OF SILKWORM COCOONS
01500 GAME PROPAGATION INCLUDING RELATED SERVICE ACTIVITIES
02013 GATHERING OF WILD GROWING FOREST MATERIALS
10101 MINING OF HARD COAL

(MANUFACTURING)

15495 MANUFACTURE OF GINSENG PRODUCTS
16001 TOBACCO STEMMING AND REDRYING

(WHOLESALE AND RETAIL)

52402 RETAIL SALE OF SECOND HANDBOOKS

(TRANSPORTATION, WAREHOUSE AND TELECOMMUNICATIONS)

60229 OTHER NON-SCHEDULED PASSENGER LAND TRANSPORT N.E.C.

63099 OTHER SERVICE ALLIED TO TRANSPORT AGENCY N.E.C.

([illegible] AND [illegible] SERVICES)

[illegible] [illegible]

HUMANITIES AND SOCIOLOGY
74303 OUTDOOR ADVERTISING
74309 ADVERTISING N.E.C.

(OTHER PUBLIC, SOCIAL AND PERSONAL SERVICES)

92412 SPORTS ORGANIZATION AND PROMOTERS
92429 ARENA AND STADIUM OPERATION N.E.C.
93099 OTHER SERVICE ACTIVITIES N.E.C.

JANUARY 1, 1994 (18 INDUSTRIES)

(AGRICULTURE, FISHERIES, FORESTRY AND MINING)

01213 FARMING OF HORSES AND SHEEP
01229 OTHER ANIMAL PRODUCTION N.E.C.
01423 HORTICULTURAL SERVICES
01429 CROP GROWING SERVICES N.E.C.
02030 FORESTRY AND LOGGING SERVICES

(MANUFACTURING)

29210 MANUFACTURE OF AGRICULTURAL AND FOREST MACHINERY

(UTILITIES)

40109 PRODUCTION, COLLECTION AND DISTRIBUTION OF ELECTRICITY N.E.C.

(CONSTRUCTION)

45101 WRECKING AND DEMOLITION WORKS
45102 EXCAVATION AND LAND LEVELLING

45109 SITE PREPARATION N.E.C.
45211 BUILDING CONSTRUCTION-OWN ACCOUNT
45212 RESIDENTIAL BUILDING CONSTRUCTION-CONTRACT
45213 OFFICE AND COMMERCIAL BUILDING CONSTRUCTION-CONTRACT
45214 INDUSTRIAL AND SIMILAR INDUSTRIAL BUILDING CONSTRUCTION-CONTRACT
45219 BUILDING COMPLETE CONSTRUCTIONS OF PARTS THEREOF N.E.
45221 HIGHWAY AND STREET CONSTRUCTION AND PAVEMENT WORKS
45222 BRIDGES, TUNNELS AND RAILWAY CONSTRUCTION
45223 WATERWAY, DAMS AND WATER SUPPLY FACILITIES CONSTRUCTI
45229 HEAVY CONSTRUCTION N.E.C.

(WHOLESALE AND RETAIL)

51494 WHOLESALE OF AGRICULTURAL MEDICINES
52204 RETAIL SALE OF VEGETABLES

(LODGING AND RESTAURANT)

55232 TEAROOMS

(TRANSPORTATION, WAREHOUSE AND TELECOMMUNICATIONS)

60219 OTHER SCHEDULED PASSENGER LAND TRANSPORT

60239 FREIGHT TRANSPORT BY ROAD N.E.C
61209 INLAND WATER TRANSPORT N.E.C.
63031 SUPPORTING RAILWAY TRANSPORT ACTIVITIES
63034 OPERATION OF TOLL ROADS
63035 OPERATION OF VEHICLE PARKING FACILITIES
63039 SUPPORTING LAND TRANSPORT ACTIVITIES N.E.C.
64203 VALUE ADDED COMMUNICATION BY COMPUTER AND SIMILAR SYSTEMS

(REAL ESTATE, RENTAL AND OTHER SERVICES)

71303 RENTING OF SPORTING AND RECREATIONAL EQUIPMENT
74997 CLERICAL AGENCY SERVICES

(OTHER PUBLIC, SOCIAL AND PERSONAL SERVICES)

92111 GENERAL MOTION PICTURE PRODUCTION
92114 MOTION PICTURE DISTRIBUTION
92191 BALLROOM OPERATION
92422 FIELD GAME STADIUM OPERATION
92423 BASEBALL GAME STADIUM OPERATION
93021 BARBER SHOPS
93022 BEAUTY SHOPS
93093 MARRIAGE BUREAU SERVICES

JANUARY 1, 1995 (35 INDUSTRIES)

(AGRICULTURE, FISHERIES, FORESTRY, MINING)

01131 GROWING OF FRUIT

(MANUFACTURING)

15522 MANUFACTURE OF REFINED RICE WINE

(RETAIL AND WHOLESALE DISTRIBUTION)

51211 WHOLESALE OF GRAIN AND SEED
51221 WHOLESALE OF FRUITS AND VEGETABLES
51342 WHOLESALE OF BOOKS AND OTHER PRINTED MATERIALS
52205 RETAIL SALE OF FRUITS
52311 RETAIL SALE OF PHARMACEUTICAL AND MEDICAL GOODS
52313 RETAIL SALE OF COSMETIC ARTICLES AND TOILET SOAP
52351 RETAIL SALE OF BOOKS AND NEWSPAPERS
52362 RETAIL SALE OF LIQUID FUEL
52363 RETAIL SALE OF GASEOUS FUEL

(TRANSPORTATION, WAREHOUSE AND TELECOMMUNICATIONS)

61109 SEA AND COASTAL WATER TRANSPORT N.E.C.
63042 PILOTAGE

63051 OPERATION OF AIR-TERMINAL FACILITIES
63091 FREIGHT FORWARDING
63092 FREIGHT BROKERAGE AGENCIES

(OTHER SERVICES)

74302 ADVERTISING PREPARATION
74941 PHOTOGRAPH PRODUCTION
74942 PHOTOGRAPH PROCESSING

(EDUCATION, HEALTH AND SOCIAL WELFARE)

80904 VOCATIONAL TRAINING SCHOOL
85111 GENERAL HOSPITALS
85112 DENTAL HOSPITALS
85113 HERB DOCTOR HOSPITALS
85119 HOSPITAL N.E.C.
85121 GENERAL CLINICS
85122 DENTAL CLINICS
85123 HERB DOCTOR CLINIC
85191 PROFESSIONAL MIDWIFERY SERVICE
85192 PARA-MEDICAL SERVICES
85193 CLINIC-PATHOLOGICAL DIAGNOSTIC LABORATORIES
85199 OTHER HUMAN HEALTH ACTIVITIES N.E.C.
85200 VETERINARY ACTIVITIES

(OTHER PUBLIC, SOCIAL AND PERSONAL SERVICES)

92112 PRODUCTION OF MOTION PICTURES FOR ADVERTISING
92194 ATTRACTIONS SHOWING PLACE OPERATION
92199 OTHER ENTERTAINMENT ACTIVITIES N.E.C.

JANUARY 1, 1996 (45 INDUSTRIES)

(AGRICULTURE, FISHERIES, FORESTRY, MINING)

01122 GROWING OF HORTICULTURAL SPECIALITIES
01132 GROWING OF BEVERAGE AND SPICE CROPS

01223 RAISING OF OTHER TYPES OF POULTRY

(MANUFACTURING)

15312 MILLING OF CEREALS
22190 OTHER PUBLISHING
22211 OFFSET PRINTING

(WHOLESALE AND RETAIL DISTRIBUTION)

51991 COMMODITY CHAIN MARKET

(CONSTRUCTION)

45224 INDUSTRIAL PROVISION ASSEMBLY AND ERECTION OF CONSTRUCTION
45225 WASTE TREATMENT AND POLLUTION PREVENTION PLANT CONSTRUCTION
45231 PILE DRIVING AND RELATED CONSTRUCTION FOUNDATION WORKS
45232 BORING, GROUTING AND WATER WELL DRILLING WORKS

45233 SCAFFOLDING WORKS AND FRAME WORKS
45234 STEEL FRAME WORKS
45235 STEEL REINFORCING AND REINFORCED CONCRETE WORKS
45236 BRICK LAYING AND STONE SETTING WORKS
45237 ROOFING AND SHEET METAL WORKS
45238 UNDERWATER WORKS
45239 BUILDINGS CONSTRUCTION RELATED SPECIAL STRUCTURES CONSTRUCTION N.E.C.
45301 PLUMBING, HEATING AND RELATED WORKS
45302 ELECTRICAL WORKS
45303 COMMUNICATION EQUIPMENT INSTALLATION
45304 WATERPROOFING SOUNDPROOFING AND FIREPROOFING WORKS
45305 INSTALLATION OF MACHINERY EQUIPMENT
45306 INSTALLATION OF ENVIRONMENTAL HYGIENE TREATMENT APPLIANCES
45307 INSTALLATION OF FENCE RAIL AND RELATED METAL STRUCTURE
45309 BUILDING INSTALLATION N.E.C.
45401 GLASS AND GLAZING WORKS
45402 INSTALLATION OR ERECTION OF DOORS
45403 PLASTERING AND TILE WORKS
45404 PAINTING WORKS
45405 PAPER HANGING AND DECORATING WORKS
45406 CARPENTRY AND FLOORING WORKS
45407 INSTALLATION OF ORNAMENTAL METAL STRUCTURE
45409 BUILDING COMPLETION N.E.C.
45500 RENTING OF CONSTRUCTION OR DEMOLITION EQUIPMENT WITH OPERATOR

(TRANSPORTATION, WAREHOUSE AND TELECOMMUNICATIONS)

64120 COURIER ACTIVITIES OTHER THAN NATIONAL POST ACTIVITIES

(REAL ESTATE, RENTAL, AND OTHER SERVICES)

71228 RENTING OF CONSTRUCTION AND CIVIL ENGINEERING MACHINERY AND EQUIPMENT
74121 CERTIFIED PUBLIC ACCOUNTING SERVICES
74122 TAXATION SERVICES
74129 ACCOUNTING BOOK-KEEPING, AND AUDITING ACTIVITIES N.E.C.
74912 EMPLOYMENT AGENCY SERVICES

(EDUCATION, HEALTH AND SOCIAL WELFARE)

Y 80905 PRELIMINARY TRAINING COURSE

(OTHER TYPES OF PUBLIC, SOCIAL AND PERSONAL SERVIES)

92192 AMUSEMENT PARK OPERATION
9309 PRIVATE NURSING AND SIMILAR SERVICES
95000 PRIVATE HOUSEHOLDS WITH EMPLOYED PERSONS

JAUARY 1, 1997 (36 INDUSTRIES)

(AGRICULTURE, FISHERIES, FORESTRY MINING)

01119 GROWING OF OTHER CROPS N.E..
01121 GROWING OF VEGETABLES
01123 ROWING OF NURSERY PRODUCTS

01124 GROWING OF ELONS AND OTHER HERBACEOUS FRUIT
01140 GROWNG OF CROPS UNDER SPECIAL FRAMES
01211 DAIR FARMING
01221 BREEDING OF PIGS
01222 RAISING OF CHICKEN
01300 ROWING OF CROPS COMBINED WITH THE FARMING OF ANIMALS; MIXED FARMING

(MANUFACTURING)

15111 SLAUGHTERING OF LIVESTOCK
15112 SLAUGHTERING OF POULTRY
22110 PUBLISHING OF BOOKS, BROCHURES, MUSICAL BOOKS AND OTHER PUBLICATIONS
22212 COMMERCIAL PRINTING BY STENCIL PAPER PLATES AND SIMILAR PLATES
22219 COMMERCIAL PRINTING N.E.C.

(UTILITIES)

40101 ELECTRIC POWER GENERATION

(WHOLESALE AND RETAIL DISTRIBUTION)

50502 AUTOMOTIVE GAS SERVICE STATIONS
51493 WHOLESALE OF FERTILIZERS
51911 GENERAL FOREIGN TRADE
51912 FOREIGN TRADE OF AGRICULTURAL RAW MATERIALS, LIVE ANIMALS FOODS BEVERAGES AND TOBACCO
51913 FOREIGN TRADE OF HOUSEHOLD GOODS
51914 FOREIGN TRADE OF NON-AGRICULTURAL INTERMEDIATE PRODUCTS, WASTE AND SCRAP
51915 FOREIGN TRADE OF MACHINERY, EQUIPMENT AND RELATED PRODUCTS
51919 FOREIGN TRADE N.E.C.
52202 RETAIL SALE OF MEAT

(TRANSPORTATION, WAREHOUSE AND TELECOMMUNICATIONS)

60222 CHARTERBUS TRANSPORT
60233 GENERAL WHOLE COUNTRY FREIGHT TRANSPORT
60234 GENERAL LOCAL FREIGHT TRANSPORT
60235 GENERAL LOCAL CARGO PICK-UP AND DELIVERY TRANSPORT
61201 INLAND WATER PASSENGER TRANSPORT
61202 INLAND WATER FREIGHT TRANSPORT
62202 AIRPLANE RENTAL WITH OPERATOR
63033 OPERATION OF FREIGHT TERMINAL FACILITIES
63052 GROUND MANAGEMENT OF AIRPLANE

(FINANCIAL SERVICES)

65923 GRANTING OF CONSUMER CREDIT CARDS AND FUNDS

(OTHER SERVICES)

92133 WIRE BROADCASTING
92321 MUSEUM GALLERY AND SCIENCE HALL OPERATION

SOURCE: MINISTRY OF FINANCE

NOTE: KSIC IS AN ABBREVIATION OF THE KOREAN STANDARD INDUSTRIAL CLASSIFICATION.

N.E.C. STANDS FOR NOT ELSEWHERE SPECIFIED

6. (U) BEGIN ANNOTATED LIST OF U.S. "PRIORITY SECTORS" FOR FOREIGN INVESTMENT WITH DATE OF OPENING UNDER MOF PLAN:

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

USG PRIORITY SECTORS:

DATE OF OPENING	KSIC CODE AND SECTORS	
N/A	( )	CABLE TELEVISION EQUIPMENT, SERVICES AND PROGRAMMING
1/1/96	01122	GROWING OF HORTICULTURAL SPECIALITIES
1/1/97	22110	PUBLISHING OF BOOKS, BROCHURES, MUSICAL BOOKS AND OTHER PUBLICATIONS
1/1/96	22190	OTHER PUBLISHING
1/1/96	22211	UPSET (E.G., OFFSET) PRINTING
N/A	24233	MANUFACTURE OF BIOLOGICAL PRODUCTS
1/1/95	52311	RETAIL SALE OF PHARMACEUTICAL AND MEDICAL GOODS
1/1/97	60233	GENERAL WHOLE COUNTRY FREIGHT
1/1/97	60234	GENERAL LOCAL FREIGHT (REMOVE CURRENT CRITERIA)
1/1/97	60235	GENERAL LOCAL CARGO PICK-UP AND DELIVERY
1/1/94	60239	FREIGHT TRANSPORT BY ROAD, N.E.C.
N/A	63011	AIR FREIGHT AND LAND FREIGHT HANDLING
1/1/97	63033	OPERATION OF FREIGHT TERMINAL FACILITIES
1/1/94	63039	SUPPORTING LAND TRANSPORT ACTIVITIES, N.E.C.
1/1/95	63051	OPERATION OF AIR TERMINAL FACILITIES
1/1/97	63052	GROUND MANAGEMENT OF AIRPLANES
N/A	63059	SUPPORTING AIR TRANSPORT ACTIVITIES, N.E.C.
1/1/95	63091	FREIGHT FORWARDING (ELIMINATE EQUITY RESTRICTIONS AND REQUIREMENT FOR KOREAN CEO)
1/1/95	63092	FREIGHT BROKERAGE AND AGENCY
N/A	63093	SHIP AND AIRCRAFT BROKERAGE AND SIMILAR SERVICES
N/A	63094	FREIGHT PACKING, CRATING, INSPECTION AND SIMILAR SERVICES
7/1/93	63099	OTHER SERVICES ALLIED TO TRANSPORT, N.E.C.

1/1/96	64120	COURIER ACTIVITIES OTHER THAN NATIONAL POST ACTIVITIES
N/A	64202	WIRELESS TELEGRAPH AND TELEPHONE
1/1/94	64203	VALUE ADDED COMMUNICATION BY COMPUTER AND SIMILAR SYSTEM (ELIMINATE OF PERCENT EQUITY LIMITATION AND PROHIBITION ON FOREIGN MANAGEMENT
N/A	64209	TELECOMS, N.E.C.
N/A	65199	OTHER FINANCIAL INTERMEDIATION (CREDIT FINANCING)
1/1/97	65923	GRANTING OF CONSUMER CREDIT CARDS
N/A	65929	OTHER CREDIT GRANTING, N.E.C.
N/A	65991	VENTURE FUND
N/A	65992	STABLE-FUND MANAGEMENTAL COMPANIES (INVESTMENT ADVISORY SERVICES)
N/A	65993	TRUSTS AND TRUST COMPANIES
N/A	67120	SECURITY CLEARING ACTIVITIES
N/A	67201	INSURANCE BROKERAGE
N/A	71320	RENTING OF OFFICE MACHINERY AND EQUIPMENT
N/A	74992	CREDIT RATING SERVICES
1/1/94	74997	CLERICAL AGENCY SERVICES
N/A	80904	VOCATIONAL TRAINING SCHOOL (ENGLISH LANGUAGE TEACHING, COMPUTER/ELECTRONICS TRAINING)
1/1/96	80905	PRELIMINARY TRAINING COURSES (ENGLISH LANGUAGE TEACHING)
N/A	80909	ADULT AND OTHER EDUCATION, N.E.C.
N/A	81029	NON-MONETARY FINANCIAL INSTITUTION (CREDIT FINANCING)

OTHER POSSIBILITIES:

N/A	22121	PUBLISHING OF NEWSPAPERS
N/A	22122	PUBLISHING OF PERIODICALS
1/1/97	22219	COMMERCIAL PRINTING, N.E.C.
N/A	51104	FOREIGN TRADE BROKERAGE
N/A	67120	SECURITY DEALING ACTIVITIES
N/A	74119	LEGAL SERVICES
N/A	74121	CERTIFIED PUBLIC ACCOUNTING SERVICES
1/1/96	74122	TAXATION SERVICES
N/A	74129	ACCOUNTING BOOK KEEPING AND AUDITING ACTIVITIES
1/1/95	74302	ADVERTISING PREPARATION
N/A	74309	ADVERTISING
1/1/95	85111	- 85[illegible] MANAGEMENT, CLINIC OWNERSHIP, [illegible] AND MANAGEMENT
1/1/95	85199	[illegible] DIAGNOSTIC LABORATORIES
1/1/95	92112	PRODUCTION OF MOTION PICTURES FOR ADVERTISING

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. paper	Administrative Procedures and Rulemaking. (2 pages)	10/15/1993	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 [5]

2009-0528-F
vz1534

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.
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]
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]

TRANSFER PRICING

Issue: In order to prevent taxpayers from shifting income from the United States, section 482 of the Internal Revenue Code requires that they deal with related parties on "arm's length" terms, i.e., they must charge or pay the same prices to related parties that they would to unrelated parties.

Background: The Administration's budget included a proposal directed at tougher enforcement of the arm's length standard. Under the proposal, a taxpayer that violates the arm's length standard may be subject to stiff penalties unless it can document that it reasonably attempted to comply with the arm's length standard. In addition, shortly before inauguration Treasury issued new temporary regulations under section 482. The new regulations are consistent with many recommendations in a report that the OECD issued on prior proposed regulations, and the reception by most foreign governments to the new regulations has been generally favorable. Treasury is working with the OECD on revisions to the 1979 OECD Transfer Pricing Report to reflect recent developments in the interpretation of the arm's length standard.

Talking Points:

- The new legislation addresses our concern that foreign-controlled corporations pay too little income tax and yet is faithful to our treaty obligations to Korea.

- While many corporations will find it burdensome to provide the documentation called for under our proposal, it is not unfair to foreigners, as it applies to U.S. as well as foreign corporations. Moreover, like any other tax provision, it is reasonable to expect that taxpayers will attempt to comply with the arm's length standard and to provide evidence of their compliance.

- We appreciate the constructive and thoughtful comments that Korea has provided on our regulations. We believe that the temporary regulations are consistent with the arm's length standard, and we look forward to additional comments as we revise them.

- We look forward to working with you and other governments to develop common approaches to the difficult problems presented by transfer pricing.

NOTE: This information is provided for background purposes only. Any questions from the Korean delegation regarding transfer pricing should be referred to Charles Cope from Treasury.

4. Transfer Pricing

The recent move by the U.S. to overhaul its tax system concerning transfer pricing between related companies is cited by many Korean companies as one of the most serious uncertainties of doing business in the U.S.

- o Let me make it clear that we have no intention whatsoever to oppose prevention of tax-evasion executed through the manipulation of transfer prices.

- o But at the same time, we think it opportune for the DEC to seek to remove those factors which could adversely affect Korean investment in the U.S.

- o Review of whether the new transfer pricing regulations and audit practices are consistent with the OECD guidelines on transfer pricing and related provisions of the Korea-U.S. tax treaty will be the most useful initial step for zeroing in on the problem.

Our most immediate concern is about the "Temporary Regulations Interpreting the Change in Section 482 of the IRC".

- o The Temporary Regulations have introduced new methods of calculating arm's-length prices : Comparable Profit Method (CPM) and Profit Split Method (PSM).

- o These new methods are major deviations from the existing methods which were recognized by the OECD guidelines and adopted by other advanced countries. And yet, due to their administrative simplicity, they stand a good chance of being selected as the best methods.

- o The difference between the newly-adopted U.S.

methods and the existing methods of other countries may increase the chances for double-taxation and disputes between tax authorities.

- o The new methods tend to favor standardized criteria and thus disregard the unique business practices and management styles of foreign countries. We are concerned that this may work as another disadvantage to foreign companies.

The so-called "earnings stripping" provisions introduced through the Budget Reconciliation Act of 1989 have been criticized by many foreign countries for not necessarily allowing the interest paid on arm's-length basis to be deducted from taxable income.

- o This is a major deviation from the internationally accepted arms-length standard.

- o This dealt a severe blow to U.S. subsidiaries of Korean companies, which are usually required by U.S. banks to provide repayment guarantees issued by their holding companies. Yet the interest paid for such loan arrangements is not guaranteed to be deductible from taxable income.

Information requirements of the U.S. Tax Code have become increasingly complex and burdensome for foreign companies.

- o The ROKG is especially concerned about the requirement for record-keeping, which may extend offshore to foreign parent companies. As a clear example of the extraterritorial application of U.S. regulations, this requirement multiplies the complexity of doing business or investing in the U.S. for foreign companies.

- o The reporting requirements under laws such as the

Omnibus Budget Reconciliation Act of 1990 apply retroactively to all open tax years and to all records in existence at the time of the enactment of the Act. These extensive reporting requirements are tying up the hands of the administrative staff of foreign-controlled corporations in the U.S. with excessive paperwork.

In January 1993, the U.S. government issued the Proposed Regulations under Code Sections 6662(e) and (j), which will make the reporting requirements even stricter and raise the penalties for failure to comply with these new requirements.

- The ROKG is of the view that these proposed regulations should be discarded or at least modified.

The tax audits pose sizable problems to foreign firms.

- The average duration of such audits is more than two years, but one company reports that an audit originally launched in 1982 is still in the pipeline.
- We are also concerned about the statistics which indicate that the incidence of tax audits is much higher than the average for foreign-controlled corporations.

Competition Policy Issues

Issue

American firms have complained that Korean Fair Trade Commission (KFTC) enforcement policy affirmatively hinders the ability of foreign companies to do business in Korea and fails to protect foreign companies from restrictive business practices in Korea. The USG should propose the establishment of a working group on competition policy and deregulation to address these issues in the context of Korea's deregulation efforts. ROKG appears reluctant to agree to begin results-oriented discussions in the near term.

Objectives

o Obtain ROKG agreement to form a working group on competition policy and deregulation that would have its first meeting in December (or January) and would produce a written set of accomplishments within the timeframe of the DEC process.

o Use the working group to achieve the following substantive goals:

-- Elimination of the KFTC's discriminatory review process for international technology licensing and other agreements.

-- Reduction in KFTC restrictions on the use of premiums and other marketing devices.

-- Measures that ensure that the KFTC is willing and able to take strong enforcement action against restrictive business practices that have the effect of excluding or impeding entry by foreign firms in the Korean market.

Talking Points

o We believe that, in order to ensure that Korea's deregulation efforts are most effective, it is important to consider the role that Korea's competition law and policy plays in furthering that process.

o The essence of deregulation is to promote increased competition in the Korean market, a goal that will lead to a better allocation of Korea's resources, more efficient companies and ultimately an increase in the standard of living of Korean consumers.

o However, it has been our experience that frequently when companies are first exposed to the increased competition and greater efficiencies created by deregulation, the initial tendency is to seek to avoid change and to engage in concerted practices with others in their industry to fend off the competitive pressures resulting from deregulation.

- o We think that it would be very useful to establish a working group between our competition authorities and other interested agencies to consider how competition policy initiatives can ensure that the fruits of Korea's deregulation efforts are not undermined by private restrictive business practices.

- o At the same time, this working group could also discuss whether certain aspects of the existing rules in the competition area unnecessarily restrict the ability of firms to engage in the most efficient business operations.

- o We, of course, fully appreciate that it may take some time for the Korean Fair Trade Commission to adjust to the tragic events of last week. Thus, we would propose that the working group not convene its first meeting until December (or January).

- o If the ROKG agrees with us on the usefulness of forming such a working group, we will ask officials from our Justice Department's Antitrust Division to take the lead for the USG in these discussions.

Background

The initial reaction to the ROKG to our proposal to establish a working group in this area was that, because of the recent tragedy, the ROKG would listen to USG concerns in this area but could not agree to have policy recommendations in this area. The KFTC, even before the boating accident, had been very reluctant to engage in substantive discussions concerning Korean competition policy, whether in the DEC or bilaterally with U.S. competition agencies. They have argued that, as an independent agency, it is not appropriate for the KFTC to engage in negotiations under the DEC.

However, there are some real deregulation-related issues within the jurisdiction of the KFTC that need to be addressed.

1. International Contract Notification

The KFTC requires that certain contracts (most importantly technology licensing and software licensing and distribution agreements) between foreign companies and Korean companies must be notified for KFTC review. Similar agreements between Korean companies are not so notified and reviewed. In March, pursuant to a PEI recommendation, the KFTC eliminated the notification requirement for joint ventures, but did not make any changes with respect to technology and software agreements. Justice met with the KFTC in February on discuss elimination of the remaining discriminatory notification and review procedures, and was told that further revisions could be considered in early 1994.

2. Premiums and Marketing Restrictions

As set out in the ROKG's responses to our questions concerning restrictions on premiums and other marketing practices, the KFTC severely restricts the ability of manufacturers and distributors to offer premiums and other sales incentives. These types of marketing practices are particularly important to new entrants (including many American firms), who need to find cost-effective ways to encourage consumers to try their products and/or to attract distributors and retailers to carry and promote their products.

3. Effective Enforcement against Exclusionary Practices

American firms trying to do business in Korea have complained about concerted practices by Korean firms aimed at excluding them from the Korean market. As Korea's deregulation measures take effect, and barriers to imports are reduced, the incidence of such exclusionary practices is likely to increase. The KFTC must be willing and able to address such practices in an effective manner.

Response to Questions Posed by The Korean Government as Part of the U.S.-Korea Dialogue for Economic Cooperation (DEC)

Q1. The relevant provisions of the U.S. laws and regulations regarding administrative reviews of antidumping orders.

A. Administrative reviews of antidumping duties orders are conducted in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). (19 U.S.C. § 1675). The relevant regulations pertaining specifically to AD administrative reviews are 19 C.F.R. § 353.22. (Copies attached).

Q2. The usual time frame for administrative review (including when it starts, duration, etc.)

A. Under section 353.22 of the Department's regulations, each year during the anniversary month of the publication of the order an interested party may request that the Department conduct an administrative review. Not later than 15 days after the anniversary month, if an administrative review is requested the Department will publish in the Federal Register a notice of initiation. It is the policy of the Department to complete all reviews within a twelve month period. However, the continued backlog from the 1980's and the large influx of steel cases recently has somewhat hampered these efforts. We do not have information on the average time between initiation and completion of reviews.

Q3. Whether it is possible to seek compensation for damages caused by the delays in administrative reviews.

A. There is no provision under the U.S. trade law to seek compensation for damages caused by the delays in administrative reviews. We note that if a review indicates the cash deposits exceed the margin of dumping, the difference is refunded with interest.

Q4. Whether the U.S. government has any plan to address the delays in administrative reviews.

A. The Department has made significant strides in reducing the backlog of administrative reviews which built up over the 1980's. Recently, due to the influx of steel cases the backlog has again been growing, but we hope to have this under control soon. The goal of the Department is to eventually eliminate the backlog altogether.

Q5. Whether the U.S. government has any plans to introduce "sunset" clauses.

A. The U.S. has no plans, at this time, to introduce legislation to include a "sunset provision" in the law. However, the Department may revoke an order with respect to a particular producer if that producer has sold the subject merchandise in the United States at not less than fair value for a period of at least three consecutive years. Also, if no interested party has requested a review for five years and no parties object, the Department may revoke an order. Finally, an order can also be revoked if the International Trade Commission determines that no material injury or threat of material or material retardation of the establishment of an industry would result from revocation of the order.

that manufacturer which was made on the date on which the latest of such determinations was made.

(2) No affirmative dumping determination that—

(A) is described in subsection (b)(2)(A) and was made before January 1, 1981, or

(B) is described in subsection (b)(2)(B) and was made before January 1, 1985,

may be taken into account under this section or section 733(b)(1) (B) and (C).

3. Administrative Review of Antidumping and Countervailing Duties

Subtitle C of Title VII (Sections 751, 761, and 762) of the Tariff Act of 1930, as amended

[19 U.S.C. 1675; P.L. 71–361, as amended by P.L. 96–39, P.L. 98–573 and P.L. 100–418]

Chapter 1—Review of Amount of Duty and Agreements Other Than Quantitative Restriction Agreements

SEC. 751. ADMINISTRATIVE REVIEW OF DETERMINATIONS.

(a) Periodic Review of Amount of Duty.—

(1) In General.—At least once during each 12-month period beginning on the anniversary of the date of publication of a countervailing duty order under this title or under section 303 of this Act, an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or a notice of the suspension of an investigation, the administering authority, if a request for such a review has been received and after publication of such review in the Federal Register, shall—

(A) review and determine the amount of any net subsidy,

(B) review, and determine (in accordance with paragraph (2)), the amount of any antidumping duty, and

(C) review the current status of, and compliance with, any agreement by reason of which an investigation was suspended, and review the amount of any net subsidy or margin of sales at less than fair value involved in the agreement,

and shall publish the results of such review, together with notice of any duty to be assessed, estimated duty to be deposited, or investigation to be resumed in the Federal Register.

(2) Determination of Antidumping Duties.—For the purpose of paragraph (1)(B), the administering authority shall determine—

(A) the foreign market value and United States price of each entry or merchandise subject to the antidumping duty order and included within that determination, and

(B) the amount, if any, by which the foreign market value of each such entry exceeds the United States price of the entry.

The administering authority, without revealing confidential information, shall publish notice of the results of the determination of antidumping duties in the Federal Register, and that determination shall be the basis for the assessment of antidumping duties on entries of the merchandise included within the determination and for deposits of estimated duties.

(b) REVIEWS UPON INFORMATION OR REQUEST.—

(1) IN GENERAL.—Whenever the administering authority or the Commission receives information concerning, or a request for the review of, an agreement accepted under section 704 (other than a quantitative restriction agreement described in subsection (a)(2) or (c)(3)) or 734 (other than a quantitative restriction agreement described in subsection (a)(2)) or an affirmative determination made under section 704(h)(2), 705(a), 705(b), 734(h)(2), 735(a), 735(b), 762(a)(1), or 762(a)(2), which shows changed circumstances sufficient to warrant a review of such determination, it shall conduct such a review after publishing notice of the review in the Federal Register. In reviewing its determination under section 704(h)(2) or 734(h)(2), the Commission shall consider whether, in the light of changed circumstances, an agreement accepted under section 704(c) or 734(c) continues to eliminate completely the injurious effects of imports of the merchandise. During an investigation by the Commission, the party seeking revocation of an antidumping or countervailing duty order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping or countervailing duty order.

(2) LIMITATION ON PERIOD FOR REVIEW.—In the absence of good cause shown—

(A) the Commission may not review a determination under section 705(b) or 735(b), and

(B) the administering authority may not review a determination under section 705(a) or 735(a), or a suspension of an investigation suspended under section 704 or 734,

less than 24 months after the date of publication of notice of that determination or suspension.

(c) REVOCATION OF COUNTERVAILING DUTY ORDER OR ANTIDUMPING DUTY ORDER.—The administering authority may revoke, in whole or in part, a countervailing duty order or an antidumping duty order, or terminate a suspended investigation, after review under this section. The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of the merchandise to the United States specifically intended to offset the subsidy received. Any such revocation or termination shall apply with respect to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on and after a date determined by the administering authority.

(d) HEARINGS.—Whenever the administering authority or the Commission conducts a review under this section it shall, upon the request of an interested party, hold a hearing in accordance with section 774(b) in connection with that review.

(e) DETERMINATION THAT BASIS FOR SUSPENSION NO LONGER EXISTS.—If the determination of the Commission under the last sentence of subsection (b)(1) is negative, the agreement shall be

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treated as not accepted, beginning on the date of publication of the Commission's determination, and the administering authority and the Commission shall proceed, under section 704(i) or 734(i), as if the agreement had been violated on that date, except that no duty under any order subsequently issued shall be assessed on merchandise entered, or withdrawn from warehouse, for consumption before that date.

(f) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term "ministerial error" includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.

CHAPTER 2—CONSULTATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

SEC. 761. REQUIRED CONSULTATIONS.

(a) AGREEMENTS IN RESPONSE TO SUBSIDIES.—Within 90 days after the administering authority accepts a quantitative restriction agreement under section 704(a)(2) or (c)(3), the President shall enter into consultations with the government that is party to the agreement for purposes of—

(1) eliminating the subsidy completely, or

(2) reducing the net subsidy to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

(b) MODIFICATION OF AGREEMENTS ON BASIS OF CONSULTATIONS.—At the direction of the President, the administering authority shall modify a quantitative restriction agreement as a result of consultations entered into under subsection (a).

(c) SPECIAL RULE REGARDING AGREEMENTS UNDER SECTION 704(c)(3).—This chapter shall cease to apply to a quantitative restriction agreement described in section 704(c)(3) at such time as that agreement ceases to have force and effect under section 704(f) or violation is found under section 704(i).

SEC. 762. REQUIRED DETERMINATIONS.

(a) IN GENERAL.—Before the expiration date, if any, of a quantitative restriction agreement accepted under section 704(a)(2) or 704(c)(3) (if suspension of the related investigation is still in effect)—

(1) the administering authority shall, at the direction of the President, initiate a proceeding to determine whether any subsidy is being provided with respect to the merchandise subject to the agreement and, if being so provided, the net subsidy; and

(2) if the administering authority initiates a proceeding under paragraph (1), the Commission shall determine whether imports of the merchandise of the kind subject to the agreement will, upon termination of the agreement, materially

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Revised as of April 1, 1993

not later than 135 days after the date of publication of the preliminary determination, unless the Secretary finds compelling reasons to deny the request.

(2) If the Secretary decides to postpone the final determination under paragraph (b)(1) of this section, the Secretary will notify all parties to the proceeding and will publish in the FEDERAL REGISTER notice of "Postponement of Final Antidumping Duty Determination," stating the reason for the postponement.

(c) *Commission access to information.* The Secretary will make available to the Commission and to employees of the Commission directly involved in the proceeding all information upon which the Secretary based the final determination and which the Commission may consider relevant to its injury determination.

(d) *Effect of negative final determination.* An investigation terminates, without further comment or action, upon publication in the FEDERAL REGISTER of the Secretary's or the Commission's negative final determination. If the Secretary previously ordered suspension of liquidation, the Secretary will order the suspension ended on the date of publication of the notice of negative final determination and will instruct the Customs Service to release any cash deposit or bond.

(e) *Disclosure.* Promptly after making the final determination, the Secretary will provide to parties to the proceeding which request disclosure a further explanation of the calculation methodology used in making the determination.

§ 353.21 Antidumping duty order.

Not later than seven days after receipt of notice of the Commission's affirmative final determination under section 735 of the Act, the Secretary will publish in the FEDERAL REGISTER an "Antidumping Duty Order" that:

(a) Instructs the Customs Service to assess antidumping duties on the merchandise, in accordance with the Secretary's instructions at the completion of each administrative review requested under § 353.22(a) or, if not requested, in accordance with the Secretary's instructions under § 353.22(e);

(b) For each entry of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the order, instructs the Customs Service to require a cash deposit of estimated antidumping duties equal to the amount of the estimated weighted-average dumping margin stated in the Secretary's final determination;

(c) Excludes from the application of the order any producer or reseller for which the Secretary finds that there was no weighted-average dumping margin during the period for which the Department measured dumping in the investigation; and

(d) Orders the suspension of liquidation ended for all entries of the merchandise entered, or withdrawn from warehouse, for consumption before the date of publication of the Commission's final determination, and instructs the Customs Service to release the cash deposit or bond on those entries, if in its final determination, the Commission found a threat of material injury or material retardation of the establishment of an industry, unless the Commission in its final determination also found that, absent the suspension of liquidation ordered under § 353.15(a), it would have found material injury.

§ 353.22 Administrative review of orders and suspension agreements.

(a) *Request for Administrative Review; Withdrawal of Request for Review.* (1) Each year during the anniversary month of the publication of an order (the calendar month in which the anniversary of the date of publication of the order or finding occurs), an interested party, as defined in paragraph (k)(2), (k)(3), (k)(4), (k)(5), or (k)(6) of § 353.2, may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers.

(2) During the same month, a producer or reseller covered by an order may request in writing that the Secre-

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(3) During the same month, an importer of the merchandise may request in writing that the Secretary conduct an administrative review of only a producer or reseller of the merchandise imported by that importer.

(4) Each year during the anniversary month of the publication of a suspension of investigation (the calendar month in which the anniversary of the date of publication of the suspension of investigation occurs), an interested party, as defined in § 353.2(k), may request in writing that the Secretary conduct an administrative review of all producers or resellers covered by an agreement on which suspension of investigation was based.

(5) The Secretary may permit a party that requests a review under paragraph (a) of this section to withdraw the request not later than 90 days after the date of publication of notice of initiation of the requested review. The Secretary may extend this time limit if the Secretary decides that it is reasonable to do so. When a request for review is withdrawn, the Secretary will publish in the FEDERAL REGISTER notice of "Termination of Antidumping Duty Administrative Review" or, if appropriate, "Partial Termination of Antidumping Duty Administrative Review".

(b) *Period under review.* (1) Except as provided in paragraph (b)(2) of this section, an administrative review under paragraph (a) of this section normally will cover, as appropriate, entries, exports, or sales of the merchandise during the 12 months immediately preceding the most recent anniversary month.

(2) For requests received during the first anniversary month after publication of an order or suspension of investigation, the review under paragraph (a) of this section will cover, as appropriate, entries, exports, or sales during the period from the date of suspension of liquidation under this part or suspension of investigation to the end of the month immediately preceding the first anniversary month.

(c) *Procedures.* After receipt of a timely request under paragraph (a) of this section, or on the Secretary's own initiative when appropriate, the Secretary will:

(1) Not later than 15 days after the anniversary month, publish in the FEDERAL REGISTER notice of "Initiation of Antidumping Duty Administrative Review;"

(2) Normally not later than 30 days after the date of publication of the notice of initiation, send to appropriate interested parties or a sample of interested parties questionnaires requesting factual information for the review;

(3) Conduct, if appropriate, a verification under § 353.36;

(4) Issue preliminary results of review, based on the available information, that include:

(i) The factual and legal conclusions on which the preliminary results are based;

(ii) The weighted-average dumping margin, if any, during the period of review for each person reviewed; and

(iii) For an agreement, the Secretary's preliminary conclusions with respect to the status of, and compliance with, the agreement;

(5) Publish in the FEDERAL REGISTER notice of "Preliminary Results of Antidumping Duty Administrative Review," including the weighted-average dumping margins, if any, and an invitation for argument consistent with § 353.38, and notify all parties to the proceeding;

(6) Promptly after issuing the preliminary results, provide to parties to the proceeding which request disclosure a further explanation of the calculation methodology used in reaching the preliminary results;

(7) Not later than 365 days after the anniversary month, issue final results of review that include:

(i) The factual and legal conclusions on which the final results are based;

(ii) The weighted-average dumping margin, if any, during the period of review for each person reviewed; and

(iii) For an agreement, the Secretary's conclusions with respect to the status of, and compliance with, the agreement;

(8) Publish in the FEDERAL REGISTER notice of "Final Results of Antidumping Duty Administrative Review," including the weighted-average dumping

margins, if any, and notify all parties to the proceeding;

(9) Promptly after issuing the final results, provide to parties to the proceeding which request disclosure a further explanation of the calculation methodology used in reaching the final results; and

(10) Promptly after publication of the notice of final results, instruct the Customs Service to assess antidumping duties on the merchandise described in paragraph (b) of this section and to collect a cash deposit of estimated antidumping duties on future entries.

(d) *Possible cancellation or revision of suspension agreement.* If during an administrative review the Secretary determines or has reason to believe that a signatory exporter has violated a suspension agreement or that the agreement no longer meets the requirements of § 353.18, the Secretary will take appropriate action under § 353.19. The Secretary may suspend the time limit in paragraph (c)(7) of this section while taking action under § 353.19(b).

(e) *Automatic assessment of duty.* (1) For orders, if the Secretary does not receive a timely request under paragraph (a)(1), (a)(2), or (a)(3) of this section, the Secretary, without additional notice, will instruct the Customs Service to assess antidumping duties on the merchandise described in paragraph (b) of this section at rates equal to the cash deposit of, or bond for, estimated antidumping duties required on that merchandise at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposits previously ordered.

(2) If the Secretary receives a timely request under paragraph (a)(1), (a)(2), or (a)(3) of this section, the Secretary in accordance with paragraph (e)(1) of this section will instruct the Customs Service to assess antidumping duties, and to continue to collect the cash deposits, on the merchandise not covered by the request.

(f) *Changed circumstances review.* (1) If the Secretary concludes from available information, including information in a request under this paragraph for an administrative review, that changed circumstances sufficient to warrant a review exist, the Secretary will:

(i) Publish in the FEDERAL REGISTER notice of "Initiation of Changed Circumstances Antidumping Duty Administrative Review;"

(ii) If necessary, send to appropriate interested parties, or a sample of interested parties, questionnaires requesting factual information for the review;

(iii) Conduct, if appropriate, a verification under § 353.36;

(iv) Issue preliminary results of review based on the available information that include the factual and legal conclusions on which the preliminary results are based and any action the Secretary proposes based on the preliminary results;

(v) Publish in the FEDERAL REGISTER notice of "Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review," including an invitation for argument consistent with § 353.38;

(vi) Notify all parties to the proceeding of the preliminary results;

(vii) Promptly after issuing the preliminary results, provide to parties to the proceeding which request disclosure a further explanation of the preliminary results;

(viii) Not later than 270 days after the date of the Secretary's initiation of the review, issue final results of review that include the factual and legal conclusions on which the final results are based and any action, including action under paragraph (c)(9) of this section and § 353.25(d), that the Secretary will take based on the final results;

(ix) Publish in the FEDERAL REGISTER notice of "Final Results of Changed Circumstances Antidumping Duty Administrative Review;"

(x) Notify all parties to the proceeding; and

(xi) Promptly after issuing the final results, provide to parties to the proceeding which request disclosure a further explanation of the final results.

(2) Changed circumstances reviews may be requested at any time, including periods other than anniversary months.

(3) The Secretary will not initiate an administrative review under paragraph (f) of this section before the end

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(4) If the Secretary concludes that expedited action is warranted, the Secretary may combine the notices identified in paragraphs (f)(1)(i) and (f)(1)(vi) of this section in a notice of "Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review." In that event, the notification required in paragraph (f)(1)(vi) of this section will be given to all interested parties included on the Department's service list described in § 353.31(h).

(g) *Expedited review.* (1) Not later than seven days after publication of an antidumping duty order, a producer or reseller may request in writing that the Secretary conduct an expedited administrative review for that producer's or reseller's shipments of the merchandise entered, or withdrawn from warehouse, for consumption:

(i) On or after the date of publication of the Secretary's affirmative preliminary determination or, if the Secretary's preliminary determination was negative, the Secretary's final determination, and

(ii) Before the date of publication of the Commission's final determination.

(2) The request must be accompanied by information the Secretary deems necessary to calculate the dumping margin, if any.

(3) If, based upon the information submitted with the request, the Secretary concludes that the dumping margin may be determined not later than 90 days after the date of publication of the order, the Secretary may conduct an expedited administrative review of the requesting producer or reseller.

(4) If the Secretary decides to conduct an expedited review, the Secretary will:

(i) Publish in the FEDERAL REGISTER notice of "Initiation of Expedited Antidumping Duty Administrative Review," which will include an invitation for argument consistent with § 353.38, and notify all parties to the proceeding;

(ii) Instruct the Customs Service to accept, in lieu of the cash deposit of estimated antidumping duties under § 353.21(b), a bond for each entry of the merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of initiation and through the date not later than 90 days after the date of publication of the order;

(iii) Conduct a verification under § 353.36;

(iv) Provide to parties to the proceeding which request disclosure an explanation of the calculation methodology used for the Secretary's analysis;

(v) Issue final results of review that include:

(A) The factual and legal conclusions on which the final results are based; and

(B) The weighted-average dumping margin, if any, during the period of review for each person reviewed;

(vi) Publish in the FEDERAL REGISTER notice of "Final Results of Expedited Antidumping Duty Administrative Review," including the weighted-average dumping margins, if any, and notify all parties to the proceeding;

(vii) Promptly after issuing the final results, provide to parties to the proceeding which request disclosure an explanation of the calculation methodology used for the Secretary's analysis; and

(viii) Promptly after publication of the notice of final results, instruct the Customs Service to assess antidumping duties on the merchandise described in paragraph (g)(1) of this section and to collect a cash deposit of estimated antidumping duties on future entries.

[54 FR 12769, Mar. 28, 1989; 54 FR 13294, Mar. 31, 1989]

§ 353.23 Provisional measures deposit cap.

This section applies to the merchandise entered, or withdrawn from warehouse, for consumption before the date of publication of the Commission's notice of affirmative final determination. If the cash deposit or bond required under the Secretary's affirm-

II. DEREGULATION

1. Anti-dumping Investigation

Problems of anti-dumping investigation system

o Since the late 1970's, various Korean products have been subject to U.S. anti-dumping measures. In the 1990's, Korea's major exports such as stainless steel pipe, DRAM semiconductors and steel products have been the main targets. Only a few months ago, there were press reports that the U.S. automobile industry is considering filing a petition for anti-dumping investigation against Korean cars, another major export item of Korea.

o Anti-dumping investigations and imposition of anti-dumping measures have a serious, disruptive effect on trade.

- A decision to start an investigation itself can be a blow to the target company. Uncertainties over the future may cause an abrupt decline in purchase orders, and the defending company may voluntarily restrain anti-dumping investigation is often abused as a legal and administrative barrier to trade.

- Critics point out that the investigations have often been conducted in an arbitrary and unfair manner; and that the implementation of the anti-dumping measures does not reflect the interests of the defending companies in a balanced way.

o Specific problems concerning U.S. anti-dumping investigations are well-documented.

A very preliminary survey of a few Korean companies which have recently been subject to U.S. anti-dumping investigation confirms the existence of these problems.

o Arbitrarily high minimum rates of profit and general expenses were applied in assessing the fair market value of Korean steel products.

o The scope of the semiconductors subject to anti-dumping measures were expanded to include so-called later generation products which have yet to be produced.

o Dumping margins for semiconductors and steel products were revised again even after the final determination had been made.

o Color TV's have been subject to anti-dumping measures for more than ten years even though the dumping margin is minimal and there is no substantial domestic production.

(General problems of the U.S. anti-dumping system)

o Procedural problems

- Arbitrary determination of status and initiation of investigation without sufficient evidence

- Requirement of excessive amount of information in a very short period of time

- Frequent use of Best Information Available (BIA)

o Problems in the calculation of dumping margin

- Disregard for negative dumping

- Exclusion of sales below cost in assessing fair market value

- Arbitrary minimum rates for calculating constructed value

- Lack of symmetrical price adjustments

- Lack of appropriate adjustment for exchange rate fluctuations

o Problems in the imposition of duties

- Non-transparency in applying anti-circumvention measures

- Unjust expansion of the scope of the products subject to anti-dumping duties

- Lack of Sunset Clause and delay of annual review

Discussing the anti-dumping investigations at the DKC

- o Anti-dumping investigations have a serious negative impact on overall Korea-U.S. economic relations as well as bilateral trade.

We hope to discuss the procedures and policies of our two countries regarding anti-dumping investigations, especially the problems identified in the course of U.S. anti-dumping investigations of Korean products, and ways to improve them.

(계속2)

Additional Comments and Questions on U.S. Antidumping Measures

In the comments on U.S. antidumping measures which were delivered in writing to the U.S. side during the first DEC meeting, the Korean side pointed out several problems which foreign companies, including Korean companies, face in connection with the imposition of antidumping duties. We would like to further elaborate on one of these problems--namely, the delay of administrative review.

Under U.S. law, antidumping duties are finalized on the basis of the dumping margin of the product actually imported. For this purpose, the Department of Commerce conducts annual administrative reviews of outstanding antidumping orders.

The administrative reviews are often delayed for a substantial period of time, in some cases up to several years. These delays add to the uncertainties of trade as well as to the financial and administrative burdens of the defending company. It also delays the refund process of antidumping duties.

In addition, since the U.S. antidumping law lacks a "sunset" clause such as those provided by the E.C., Australia and Canada, the delays in administrative reviews have a more serious implication. Under the U.S. law, dumping orders can be lifted when dumping below de minimis level of 0.5 percent has been found for three consecutive years. However, the delays in administrative reviews hinder defending companies from taking full advantage of this provision.

The annual review of antidumping orders on Korean color televisions is a case in point. It was on September 20, 1993 that the Department of Commerce announced the final results of its administrative review of antidumping orders on Korean color televisions for the period from April 1, 1990 through March 31, 1991. But the Department of Commerce has yet to publish the final results of its administrative review for the preceding two years from April 1, 1988 through March 31, 1990.

The case of Korean color televisions also illustrates the reduced effectiveness of the revocation provisions due to excessive delays in annual reviews. The dumping margins on color televisions manufactured by Samsung Electronics Co. were found to be below the de minimis level for two consecutive years (from April 1, 1986 through March 31, 1988). But because the Department of Commerce did not publish the final result of its administrative review for the following year (from April 1988 to March 1989) as explained above, the company had to respond to administrative reviews for the ensuing years from April 1989 to March 31, 1989 and again for the period from April 1990 to March 31, 1991. It should be noted that the dumping margin on Samsung's color televisions for the period from April 1, 1990 to March 31, 1991 was found to be below the de minimis level.

In this regard, we would like to know the following:

1. the relevant provisions of the U.S. laws and regulations regarding adminstrative review of antidumping orders

2. the usual timeframe for administrative review (including when it starts, duration, etc.)

3. whether it is possible to seek compensation for damages caused by the delays in administrative reviews

4. whether the U.S. Government has any plan to address the delays in adminstrative reviews

5. whether the U.S. Government has any plan to introduce "sunset" clauses

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004. briefing paper	October Meeting in Seoul of the U.S.-Korea Dialogue for Economic Cooperation. (3 pages)	09/29/1993	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 [5]

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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.
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]
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]

U.S. - KOREA DIALOGUE FOR ECONOMIC COOPERATION

Issue: Customs and Import Clearance

U.S. Objectives: The USG wishes to expedite release of merchandise imported into Korea. There are several specific goals, namely:

1. increase pre-arrival processing and clearance
2. improve coordination between agencies
3. create a Trade Ombudsman position to hear and resolve complaints about import clearance procedures

Korean Objectives: Korea has established many import clearance procedures that serve as trade barriers. Delays in release of cargo and uncertainty of admissability are used to impede shipments that compete with Korean products.

Background: Delays in the release of merchandise imported into Korea impose an economic hardship on U.S. exporters. Several agencies (Customs, MAFF, MOHSA, etc.) have authority to control the clearance of cargo at the time of importation, but, they do little to coordinate their clearance procedures. There is no place an importer can go to resolve ongoing or interagency problems. The USG has encouraged the ROKG to establish a mechanism for resolving problems and disputes before they are raised to the diplomatic level. Under the previous U.S. administration, U.S. Customs established a Trade Ombudsman position with responsibility to listen to the trade community and resolve it's problems. The Ombudsman is a political appointee who has no predisposition to assume that the government is always correct. Note, however, that the U.S. Customs Ombudsman does not have authority in other USG agencies. But, the interagency problems experienced in Korea do not exist in the U.S. because there is excellent interagency cooperation in the U.S. and other USG agencies have delegated many of their functions to USCS.

Talking Points:

- Cargo moves by air freight from the U.S. to Korea in half a day. But, many days are required after arrival in Korea before an importer may take possession of his goods.

- Free trade must be fair trade. Procedural barriers act to diminish the value of imported goods.

- Import clearance procedures are judged, not by the speed of clearance by any one government agency, but by the total elapse time from arrival of the goods until they are released to the importer.

- Trade disputes based on administrative procedures are better resolved at the administrative level than the diplomatic level.

Prepared by U.S. Customs Service October 7, 1993

U.S. - KOREA DIALOGUE FOR ECONOMIC COOPERATION

KOREAN ISSUE: Customs User Fee (Merchandise Processing Fee)

A) The MPF collected by the U.S. Customs Service is a barrier to trade.

B) The MPF fee structure is inconsistent with relevant General Agreement on Tariffs and Trade (GATT) provisions.

KOREAN OBJECTIVE:

To persuade the U.S. Government to eliminate or restructure the MPF.

BACKGROUND:

Effective December 1, 1986, the U.S. Customs Service, under the authority of 19 U.S. Code 58c, was given the authority to collect a merchandise processing fee (MPF) from importers.

The purpose of collecting this fee is to offset that part of the Commercial Operations budget of the U.S. Customs Service that is related to the cost of processing the imports for which the fee is imposed. Commercial Operations is responsible for assessing and collecting duties on merchandise imported into the United States.

Importers pay this fee at the time of entry. The fee varies, within certain minimum and maximum amounts, depending on the type of entry filed with U.S. Customs and the value of the imported goods.

The MPF has been a contentious issue with some GATT members, and the European Economic Community (EEC) submitted it to GATT dispute settlement in the late 1980's. The MPF system in its current state comports with the finding of that dispute settlement process.

TALKING POINTS:

- The MPF is not a barrier to trade. It is a means of financing certain operational costs allowing U.S. Customs to be one of the most efficient, cost effective customs services in the world.

- The MPF offsets part of the operational costs of the U.S. Customs Service's application of its entry and clearance procedures with respect to the goods for which it is collected. The MPF actually facilitates trade by providing ample U.S. Customs labor and capital resources used in its processing and clearing of imported merchandise.

- In 1991, the U.S. Customs Service modified its MPF fee structure in response to a GATT panel's finding that aspects of the ad valorem MPF were inconsistent with certain U.S. international obligations.

- U.S. Customs modified the MPF fee structure to include minimum and maximum charges per formal entry, and has discontinued its use of commercial cost estimates deemed inappropriate by the GATT panel. Additionally, to the extent presently feasible, U.S. Customs has restricted the use of fees collected to the processing of the imports for which they were collected.

- To ensure the MPF is fairly and equitably charged, U.S. Customs is moving towards developing a cost-based accounting system that would more accurately calculate labor costs paid from MPF revenues. Like the system now in place this system would be consistent with both GATT provisions and generally accepted accounting principles.

prepared by:
U.S. Customs Service
October 8, 1993

U.S. - KOREAN DIALOGUE FOR ECONOMIC COOPERATION

KOREAN ISSUE: INDUSTRIAL COOPERATION

Issue:

The Korea Government (ROKG) continues to push for a formal agreement on industrial cooperation with the U.S.

Korean Objectives:

During their meeting on April 15, 1993, Minister of Trade, Industry and Energy (MOTIE) Kim Chul-su presented Commerce Secretary Brown with "A Proposal for Industrial Cooperation Between Korea and the United States." Through this proposal, Korea seeks to encourage the USG to become more actively involved in promoting U.S. technology transfer to Korea.

U.S. Objectives:

The USG should agree to negotiate a formal arrangement on industrial cooperation with Korea, provided there is real progress on issues of concern to the U.S. business community, such as an improved investment climate and better intellectual property protection. We should use Secretary Brown's meeting with Minister Kim to outline our views on the conditions and possible components of such an arrangement.

Background:

Secretary Brown has agreed to begin a dialogue on Trade Minister Kim's Proposal for Industrial Cooperation (ICP). A letter from the Secretary to Minister Kim stating this was delivered by the U.S. Embassy in Seoul. Secretary Brown's letter endorses the concept of the proposal but does not accept it per se. It does state that U.S.-Korea cooperation should not be confined just to technology, but broadened to include ways of improving the investment climate for all industry sectors. These problems include poor intellectual property protection, government limits on royalties and a difficult investment environment. The ICP also proposes that informal talks begin so that an agenda can be developed before the Secretary and the Minister meet during the APEC summit in November.

The ICP contains little new substance that has not previously been addressed by the USG in discussions with the ROKG over the past several years, in the Technology Subgroup of the Presidents' Economic Initiative (PEI) and the Science and Technology (S&T) Agreement talks. This is the fifth such proposal submitted to the USG since January 1992 and is part of a broad, ongoing effort by Korea to attract foreign technology so as to improve Korea's industrial competitiveness. Dissatisfied with progress in the Technology Subgroup, PEI and S&T, the ROKG hopes through their current proposal to establish a direct channel of communication between MOTIE and Commerce, and to expand the scope of the technology discussions.

Korea's proposal lists five prospective areas of cooperation: 1) blueprint/plan for long term cooperation; 2) fora for exchange of information; 3) financial assistance for industry; 4) promotion/support for joint ventures; and 5) trade events.

Commerce Acting Under Secretary Hauser met with Assistant Trade Minister Park on June 15 to discuss the proposal. Rather than seek a response to the April 15 proposal, Park presented Commerce with another proposal which outlines additional ROKG positions.

The USG continues to address industrial/technology cooperation issues under both the S&T and PEI agreements. Under the S&T Agreement, several major Korean corporations have invested large sums to establish joint laboratories with major U.S. universities; these and other interactions under the S&T series of agreements are expected to result in future joint ventures. (The S&T Agreement took effect on July 29 of this year). Also, the Technology Subgroup of the U.S.-Korea Economic Consultation was redesignated in December 1992 with a mandate to establish a basis for further commercial technology cooperation and carry on and elaborate the work of the PEI technology working group. Therefore, the proposal may best be addressed by the Technology Subgroup.

During the Dialogue for Economic Cooperation (DEC) talks in Washington on September 7-8, the ICP was drawn under the DEC.

On October 12, representatives from the Korean Embassy in Washington presented to Commerce officials a draft <u>Arrangement for the Establishment of the Joint Committee on Industrial and Technology Cooperation between the Ministry of Trade, Industry and Energy, Republic of Korea and the Department of Commerce, the United States of America</u>. This draft Arrangement proposes the establish of a joint committee comprised of U.S. and Korea government officials, as well as private sector organizations. The committee's function, among other things, would be to promote industrial and technological cooperation, identify and remove impediments to industrial and technology cooperation, and support industry-specific forums, seminars and symposium. The Koreans expressed the hope of having this Arrangement finalized prior to the APEC meeting in November so that Secretary Brown and Minister Kim could execute it during their bilateral meeting. We suggest that Secretary Brown outline our views on such an arrangement, and the conditions that are necessary for its completion, e.g., IPR protection (laws and enforcement), protection of investment, and deregulation of investment rules.

<u>Talking Points</u>:

o We agree on the importance of discussing industrial cooperation as part of the DEC. Our governments should strive to recommend and develop ways to expand on the progress made over the last two years in the Technology Subgroup and the President's Economic Initiative.

- However, it is important that the Proposal for Industrial Cooperation focus not only on technology but on areas of importance to U.S. businesses, such as liberalization of Korea's investment regime and elimination of barriers in other sectors.

- U.S. firms face significant difficulties in doing business in Korea, such as: poor intellectual property protection, government limits on royalties and a difficult investment environment.

- Depending on our discussions here, we may wish to establish a formal counterparts group when Secretary Brown and Minister Kim meet in November during APEC and agree to an agenda.

- We propose that Secretary Brown and Minister Kim meet in Seattle to discuss the conditions and possible components of an industrial cooperation arrangement.

I. ECONOMIC COOPERATION

1. Industrial Cooperation

The necessity to discuss industrial cooperation at the DEC

o Enhancing industrial cooperation is central to achieving an expanded economic partnership, which is the primary purpose of the DEC.

- The complementarily of the industrial structures of our two nations can best be utilized to the benefits of both countries through the exchange of information, joint ventures and transfer of technology.

- Industrial cooperation is a combination of all these mutually beneficial exchanges between the private sectors of our two economies, and as such is expected to enhance the international competitiveness of both countries.

o Mr. Kim Chulsu, Minister of Trade, Industry and Energy, made a proposal to the U.S. government for enhanced industrial cooperation during his visit to the United States last April. We understand that the U.S. government has been reviewing the proposal and will soon convey the results to our side.

o At the DEC, we hope to establish a framework for expanding bilateral industrial cooperation.

- We may also consider establishing a joint committee composed of representatives of both the government and private sector, in order to develop concrete programs for cooperation.

Explanation of Korea's preparation for expanded Korea-U.S. industrial cooperation.

- o Our original plan was to create a Korea-U.S. Joint Fund for industrial cooperation. But in consideration of budgetary problems in the U.S., we have changed the plan and started to raise the funds independently.

  - We plan to establish a Fund of US$20 million by 1997, with contributions from both the government and private sector. We have already secured US$4.3 million, including US$1 million from the 1994 government budget.

- o We are also working on the establishment of the Korea-U.S. Industrial Cooperation Foundation.

  - The Foundation will have the authority to manage the Fund. Establishment of the Foundation is now being arranged by the Federation of Korean Industries, one of the major contributors to the Fund.

  - As soon as the details of the Fund and operation plan are determined, we plan to implement the following programs:

  1) Financial support for feasibility studies and drafting of business plans for individual Korea-U.S. joint projects, such as joint production, technology tie-ups and joint ventures in third countries, with a particular emphasis on high-tech fields.

  2) Financial support for holding U.S.-Korea techno-marts, symposiums and business consultations between the industries of our two countries.

  3) Exchange of personnel between U.S. and Korean businesses.

- o The Korean government plans to build Free Investment Zones (FIZ).

- In order to encourage foreign investment in high-tech industries, the government plans to build two FIZ's in the Seoul metropolitan area.

- Foreign investors in the FIZ will be granted a number of benefits, including easier land acquisition, streamlined procedures for investment approval and factory construction and greater access to off-shore financing.

- The total cost of building the FIZ's is estimated at US$100 million.

We ask the USG's active cooperation in Korea-U.S. industrial cooperation.

o We ask the U.S. government to positively consider participating in the creation of the Fund and to provide cooperation for the projects to be carried out by the Foundation.

Promotion of Joint Ventures in Third Countries

As U.S. companies increasingly shift their focus to the dynamic Asia-Pacific region, Korea is emerging as a nation with much to offer as a potential partner for American business.

Geographically, Korea is strategically-located at the hub of Northeast Asia. It enjoys amicable diplomatic relations with all major countries in the region, including China and Russia. Cultural familiarity affords Korean companies a valuable edge in adapting to local conditions.

Korea also possesses the kind of administrative experience and technical know-how which is most welcome in these neighboring giants. Strong exports of Korean capital and intermediate goods to Southeast Asia and China suggest that Korea's medium-level technology is already proving easily applicable in developing countries. Finally, Korea's manufacturing capabilities, supported by a skilled, highly-educated and cost-efficient labor force, can successfully complement the advanced technology as well as financing and marketing abilities of U.S. firms.

Third-country joint ventures constitute a viable arrangement for taking full advantage of the complementary potentials of our two countries. Particularly in the areas of construction, development of natural resources, manufacturing of sophistocated machinery and parts and the marketing/distribution businesses, Korea provides an ideal regional center for future Asia-wide operations of American businesses.

This issue was tabled several times at the Economic Sub-Cabinet meetings of the past. Discussion at these meetings was less than conducive to concrete results, due in no small part to Korea's lukewarm commitment to take necessary measures to improve its business environment. But with Korea's recent drive to upgrade its investment and business climate in close cooperation with the U.S., the obstacles to third-country joint ventures are rapidly being dismantled. We believe that these reforms are creating a most favorable environment for our countries' cooperation in this area.

Third-country joint ventures should be initiated by private businesses, but governments can also play an active role by providing relevant information and improving institutional facilities for such ventures. We would like to discuss the promotion of third-country joint ventures as a sub-item of industrial cooperation, which we proposed to discuss at the DEC as a way to enhance economic cooperation between our two countries.

U.S.-Korea Dialogue for Economic Cooperation

Science and Technology Cooperation

Issue: Korea has proposed to use the DEC to "jump start" the work of the Joint Committee of the S&T Agreement until that committee is formed. Korea seeks a ministerial level S&T meeting and a U.S.-Korea bilateral industrial research and development foundation.

U.S. Objective: The U.S. seeks to maintain the Joint Committee of the S&T Agreement as the forum for discussing government-to-government S&T cooperation and has proposed a first Joint Committee meeting in Seoul November 18-19. While prepared to look into options for a high level S&T meeting, the U.S. believes the work must begin at the technical and will field a technical team to the Joint Committee.

The U.S. has suggested that our first priority should be implementation of the S&T agreement, and that the idea of a foundation can be considered in the future as we evaluate our progress under the umbrella agreement.

The U.S. would propose the Joint Committee report on its work to the DEC.

Korean Objectives: Korea seeks to "jump start" the work of the Joint Committee by discussing ways to enhance bilateral S&T cooperation in the DEC pending the first meeting of the Joint Committee. Korea wants the Joint Committee to meet at the Ministerial level (like with Japan), and has proposed establishment of a Technology Foundation to provide partial funding of joint research by U.S. and Korean firms.

Background: The STA and a U.S.-linked Patent Secrecy Agreement (which required action by the Korean National Assembly) entered into force July 29, 1993. Korea is anxious to pursue cooperation and has asked for an early (October/November) meeting at the Ministerial level of the Joint Committee of the STA in Seoul. Korea cites the U.S.-Japan ministerial level S&T Joint Committee as their model.

While not rejecting the idea of a senior level meeting, we believe the priority is for the Joint Committee to meet at the technical level in Korea to allow U.S. agencies an opportunity to review and investigate potential partners. OES DAS John Boright is preparing to lead an interagency team to Seoul November 18-19, 1993.

The foundation sought by Korea is based a U.S.-Israel foundation which provides partial funding for joint research projects by U.S. and Israeli firms. Funding (USD 30 million each) proposed by Korea is the major, although not only, problem. To meet Korea's desire for a political level S&T event, we are investigating opportunities associated with planned travel of senior officials.

Talking Points:

-- The U.S. shares Korea's desire for an early meeting of the STA Joint Committee and implementation of the agreement, and has proposed the Joint Committee meet in Seoul on November 18-19, 1993.

-- We understand your desire for a high-level meeting and are looking into various options.

-- We believe the priority is to pursue implementation through technical contacts. Dr. John Boright (OES/S) will lead a team of technical agency representatives to the Joint Committee meeting.

-- The idea of a technology foundation can be considered in the future as we evaluate progress under the STA.

-- We would suggest science and technology cooperation be pursued through the Joint Committee of the STA and that the Joint Committee be requested to report on its work to the DEC.

Drafted:OES/SCP:JRichardson
10/6/93 SESCTB 6449

2. Science and Technology Cooperation

Discussion of science and technology cooperation at the DEC

- o The Agreement on Science and Technology Cooperation (STA) went into effect on July 29. We understand that discussions on establishing a Joint Committee on Science and Technology as set forth in the agreement have since been under way between the relevant authorities of the two countries.

- o Through the DEC, we want to give a jump start to the work of the Joint Committee and discuss ways to enhance science and technology cooperation until the Committee is formed and begins operation.

Establishment of the Joint Committee and timing of the first session

- o We hope to hold the first meeting of the Joint Committee at the earliest date possible.

  - There has been no legal basis for Korea-U.S. science and technology cooperation for about four years since the old agreement expired in October 1988. It was only about two months ago that the new agreement entered into force. It is with this sense of urgency that we wish to renew our science and technology cooperation, including the various programs envisaged by the Agreement, as soon as possible.

3. Mutual Exemption of Social Security Tax

Korean citizens temporarily staying in the United States to work for U.S. branches or subsidiaries of Korean companies must pay Social Security Payroll Tax (SSPT) under the provisions of Federal Insurance Contribution Act (FICA), while at the same time paying dues to the Korean government in accordance with Korea's National Pension Act.

According to the U.S. system, they must pay Social Security Payroll Tax for at least 10 years to receive benefits. But foreigners working on a short-term basis in the U.S. are also obliged to pay the tax, even though it is not evident that they will enjoy the benefits.

Since an employer must share 50% of the tax, it has become a financial burden upon the company as well as the employees who are saddled with additional income tax.

One way to solve this problem is to conclude a social security agreement, granting an exemption from the SSPT to the citizens of one contracting party staying in the other contracting party on a temporary basis.

o The United States has already signed a similar agreement with 14 nations, including Austria, Belgium, Italy and the U.K.

TO BE PROVIDED

U.S.-Korea Dialogue for Economic Cooperation

Labor/Industrial Relations Issues

Issue: Korea has proposed to discuss labor issues in the DEC as "part of our discussion on economic cooperation." They have offered no specifics on what topics they wish to discuss, but evidently seek some sort of cooperative consultations on the prevention and resolution of labor disputes.

We have requested further information from Korea on what labor/industrial relations activities and issues they wish to discuss.

U.S. Objectives: While we would not agree to discuss labor disputes involving U.S. firms in the DEC, we are in principle willing to continue or intensify recent U.S. programs in Korea on voluntary mediation and labor/management cooperation. These programs could have a long-term positive effect on the industrial relations climate facing U.S. firms in Korea.

In conjunction with a cooperative program on voluntary mediation and labor/management cooperation, we would also seek consultations on aspects of Korean labor laws, policies, and practices related to the right of association and the right to organize and bargain collectively. The U.S. has longstanding worker rights concerns with Korea in these areas (deficiencies in these areas led to OPIC's decision in 1991 to suspend further activities in Korea).

Tight resources will likely constrain any cooperative program on labor/industrial relations issues. We have been unable to secure travel funding for an initial visit of U.S. labor experts to Korea, although partial USIA funding continues to be a possibility.

Korean Objectives: Korea sincerely desires U.S. advice on the peaceful prevention and resolution of labor disputes. It also clearly seeks from the DEC public recognition that it is working to improve the industrial relations climate facing foreign firms. In addition, Korea hopes to use discussions in the DEC on labor/industrial relations issues to encourage the U.S. to reinstate its OPIC benefits.

Background: The number of labor disputes in Korea mushroomed in the wake of the country's 1987 democratization. Although the number of labor disputes has dropped off since 1989, they are still running at higher levels than in the early and mid-1980s. Foreign firms in Korea have been an especially tempting target for labor militancy because they are perceived as being able to afford high wage and benefit packages. U.S. banks operating in Korea have been particularly hard hit by labor disputes.

The relative militancy of Korean labor is compounded by the country's dispute resolution system, which authorizes semiautonomous labor commissions under the Ministry of Labor to start conciliation and mediation of labor disputes after, but not before, negotiations break down and the two sides become locked into their positions. Korea has neither an independent labor mediation service comparable to the U.S. Federal Mediation and Conciliation Service nor an autonomous labor dispute adjudication agency like the U.S. National Labor Relations Board. It is reportedly considering establishing both.

While it consistently points out that OPIC's 1991 decision to suspend further activities in Korea has not had a direct impact on the Korean economy, the ROKG views the OPIC suspension as unfair, especially since Korea joined the ILO in December 1991. However, Korea has not yet ratified the principal ILO conventions dealing with the right of association and the right to organize and bargain collectively (Conventions 87 and 98, respectively) or made any other reforms to its labor code that directly address OPIC's concerns on the right of association issue. However, court decisions since 1991 have substantially widened the legality of unions outside the Korean Federation of Trade Union (KFTU) framework. In order to reverse the OPIC suspension, the ROKG must formally request reinstatement and, if necessary, respond to likely opposition in OPIC's public hearing process.

The U.S. has longstanding worker rights concerns in Korea centering around the country's single union system, which permits the formation of only one union in each workplace and formerly required all unions to be affiliated with the official Korean Federation of Trade Unions (KFTU). Some Korean dissident unions are not officially recognized by the government and are not permitted to represent their membership legally. In addition, we have expressed concern with Korea's third party intervention law, which forbids the intervention of all but legally registered unions in industrial disputes, and with the imprisonment of union leaders involved in strikes.

Talking Points:

o While we understand that some labor issues are sensitive, we believe that a cooperative program on labor/industrial relations issues could be beneficial for both Korea and the U.S.

o Before we reach final agreement on conducting a cooperative labor/industrial relations program under the DEC, however, we would appreciate more information on what activities and issues you would like to discuss.

o We are also interested in what organizations--government or private--that you believe might be interested in carrying out a cooperative program on labor/industrial relations issues.

- o We would welcome a further discussion of this issue either in our working-level session or though our embassies.

(If raised)

- o While we are willing to discuss the general issues related to OPIC's decision to suspend its programs in Korea, the DEC is not an appropriate forum for discussing Korea's reinstatement.

- o OPIC's worker rights reviews are carried out under specific statutory authority, and Korea must apply for reinstatement directly to OPIC.

Drafted:EAP/K:WHeidt
SEKEC 2070 10/18/93

Cleared:EAP/RA:BMalkin
S/IL:AHIrons
DOL/ILAB:GHalm (info)
FMCS:JPower
OPIC:HHimberg

(첨부1)

Cooperation on Labor Issues

Over the last several years, the rapid democratization of Korean society has strengthened the rights of workers substantially. Consequently, one can find labor disputes, some of them quite serious, in virtually every sector of the economy.

Foreign-invested firms have been no exception. In fact, labor disputes are increasingly cited as one of the main difficulties faced by foreign-invested firms doing business in Korea. This has become a major factor discouraging foreign investment here.

Labor disputes are essentially a matter between private parties, namely workers and their employer. Notwithstanding the private nature of labor disputes, however, there is room for government intervention. As we have seen, prolonged labor disputes can tarnish Korea's image as an attractive place for foreign investors.

In a renewed commitment to openness, the Korean government is willing to discuss even thorny issues such as labor disputes at the DEC. As the United States has much experience in managing often disruptive labor relations, it has much to advise Korea concerning the prevention and resolution of labor disputes.

In addition, we believe it is appropriate to discuss at the DEC the reinstatement of OPIC programs in Korea. While the OPIC's decision in 1991 to suspend its activities in Korea did not have a direct impact on the Korean economy, it risks giving the international community a distorted image of labor rights in Korea. We believe that the much-improved labor situation in Korea, especially after its entry into the International Labor Organization, warrants the immediate restoration of OPIC programs.

Suggested Channel for Consultation

We understand that the U.S. side would like to raise labor issues in connection with economic deregulation. From our perspective, however, labor disputes in foreign-invested firms are not a question of over-regulation. Consequently, discussion of labor issues under the heading of deregulation risks provoking a negative reaction from the Korean public. For these reasons, we would like to address labor issues as part of our discussion on economic cooperation.

With mutual consent, issues with highly-sensitive, political implications could be excluded from the agenda discussion on labor issues.

Proposal to Establish a Cooperative Dialogue
Between U.S. and Korean Bank Regulators

Background

Pervasive regulatory controls in Korea are made worse by a lack of transparency and consistency in the enforcement of banking regulations. What is included in written regulations often bears little resemblance to what is actually permitted or forbidden by regulators through informal guidance. This has led to frequent problems for foreign banks operating in Korea. Treasury believes a cooperative dialogue between U.S. and Korean bank regulators, perhaps leading to a technical assistance or training program by U.S. regulators on how foreign banks are regulated in the United States, would be a positive and effective means of addressing concerns of U.S. and other foreign financial institutions in Korea in this area. Assistant Secretary for International Affairs Shafer and Under Secretary for International Affairs Summers have raised this in earlier discussions with the Koreans in the context of the Financial Policy Talks. The Office of the Comptroller of the Currency is highly supportive of the proposal. We do not yet have a response from Federal Reserve Board regulators.

Talking Points

- Treasury supports the establishment of a cooperative dialogue between U.S. and Korean bank regulators on the regulation of foreign banks in our two countries.

- U.S. regulators stand ready to take part in such a dialogue, which could perhaps lead to a program of technical assistance or training in the supervision of foreign banks.

- Mr. Jon Hartzell, the U.S. Comptroller of the Currency's Deputy Comptroller for International Banking and Finance, will be in the region for two weeks starting November 9th and would welcome the opportunity to discuss with Korean regulators in Seoul the proposal and the areas that would be most usefully addressed in such a dialogue.

- We would propose that the regulators from each side provide a report on their discussions/activities to the umbrella group of the U.S.-Korea Dialogue for Economic Cooperation at the next plenary session (anticipated for late January or early February 1994).

Treasury/INA/Brettschneider
OCC/Sullivan
10/15/93

U.S.-Korea Dialogue for Economic Cooperation

Mutual Exemption of Social Security Taxes

Issue: Korea has proposed negotiating a bilateral social security agreement with the U.S. A bilateral agreement would eliminate the requirement that Korean firms pay both U.S. and Korean social security taxes for their Korean employees working temporarily in the U.S.

U.S. Objectives: U.S. firms are not required to pay Korean social security taxes for their American employees working temporarily in Korea. Consequently, negotiating a bilateral social security agreement would have only a negligible impact on U.S. firms operating in Korea.

However, we would like to respond positively to Korea's proposal, especially since the U.S. Social Security Administration (SSA) carries out an active program of negotiating "totalization" agreements with foreign countries. We have requested the SSA in writing to include Korea in their 1994-96 negotiating plan.

Korean Objectives: The requirement that Korean employees of Korean firms in the U.S. pay both Korean and U.S. social security taxes is a burden on both the employees and the firms. Korea hopes to reduce this burden through the negotiation of an agreement.

Background: SSA staff is now preparing a three-year negotiating plan for 1994-1996, and requested Department views in May on the countries to be included in the plan. Our response to the SSA, which was transmitted only this week, included a strong pitch for Korea. We will continue to monitor SSA's review, which should be wrapped up in December.

SSA's problem with Korea is that an agreement would be a money-loser for the Social Security Trust Fund since U.S. firms are not required to contribute to the Korean social security fund. Nonetheless, SSA has made it clear that they would take very seriously a strong recommendation from State that Korea be made a priority.

Talking Points:

- The U.S. Social Security Administration is now reviewing our bilateral social security relationships with the goal of preparing a negotiating plan for 1994-1996.

- We have conveyed to the SSA Korea's request to negotiate a social security agreement, and have recommended the inclusion of Korea as a priority in the negotiating plan.

- We understand the importance Korea attaches to this issue, and will provide an update to the Korean government once SSA completes its review.

4. Mutual Recognition of Test Results

We propose to discuss ways to mutually recognize the test results of the other country's testing institutions in the areas of telecommunications equipment, certain food and agricultural products and manufactured products. The scope and degree of the mutual recognition may be decided through further consultations under the framework of the DEC.

- o With regard to telecommunications equipment, the test results for type approval or authorization of a certain number of testing institutions designated by the U.S. FCC and Korea's Radio Research Laboratory (RRL) may be mutually recognized. Eventually, both countries may aspire to agree that a type approval or authorization itself issued by the one country's authorities concerned may be automatically accepted by the other government.

- o Likewise, test results for certain food and agricultural products made by the FDA and official testing institutions designated by Korea's MAFF may be mutually accepted.

- o As for the mutual recognition of the conformity test results for manufactured goods, we would like to start our experiments with fasteners, i.e. nuts and bolts. We wish to work on the arrangement under which test results of the testing institutions authorized by the U.S. NIST and Korea's IAA are mutually recognized.

The mutual recognition of test results or mutual accreditation of testing bodies would save time and money for traders of both countries by avoiding double testing. It would also prevent potential disputes that may arise from the differences in testing methods, testing equipment and analytical techniques between the testing institutions of both countries. Quite recently, we experienced how enormous damage could be when a product was denied import clearance because of test failure after arrival at the port of entry.

This issue was included in the recommendation of the PEI in the form of asking both parties to engage in consultations to this end. We note that there was no tangible progress in our efforts.

- We think this is exemplary of the concrete way of promoting the economic cooperation between our two countries. As such, we wish to agree upon the work plan for this project under the DEC.

- Particularly, we wish to see prompt and tangible progress in the mutual recognition of telecommunications equipment in that this project was set forth originally in the 1992 telecommunications agreement and again in the PEI recommendation.

U.S.- KOREA DIALOGUE FOR ECONOMIC COOPERATION

KOREAN ISSUE: CONSTRUCTION SURETY BONDS

Issue:

Korean construction companies complain of difficulties in meeting the requirements for obtaining surety bonds which are necessary for bidding on U.S. contracts.

Korean Objectives:

Korea seeks a relaxation of the 100% surety bond requirement for foreign bidders on U.S. construction contracts. Korean companies cannot obtain these bonds without prior experience in the U.S. but cannot bid on U.S. projects without these bonds, a catch-22 situation. Korea proposes that the criteria for issuing surety bonds be expanded to include foreign companies' assets, experience in overseas projects, and financial standing.

U.S. Objectives:

Reiterate that this is a business practice that could not be regulated by the USG.

Background:

This issue has previously been raised by the ROKG in the October 1992 and March 1993 Trade Subgroups. During both meetings, the USG has explained that the requirement for surety bonds is not discriminatory. U.S. surety companies voluntarily use the U.S. experience requirement as a business practice aimed at avoiding financial risk. As such, it is not appropriate for the USG to address this issue. The ROKG, however, would like the USG to "restructure" these business standards in line with international standards.

At the March 1993 Trade Subgroup, the USG gave the ROK delegation a list of possible solutions for Korean contractors (attached). Korea accepted the list but apparently still seeks USG action to regulate the business practices of surety companies. The issue was again raised by the Koreans during the DEC talks in Washington on September 7-8. Korean Assistant Minister Sun presented the U.S. delegation with a paper on this matter.

Talking Points:

- U.S. legal requirements for surety bonds do not discriminate between foreign and domestic contractors. This is a business problem for Korean contractors, not a regulatory or trade problem.

- Surety bonding is common in the U.S. construction industry to protect the interests of owners. By federal law, all construction companies bidding on USG projects, valued at $25,000 or more, must be bonded with Treasury-approved surety companies. Most state-level projects (by law or practice) and private projects owners (by practice) also require bidders to be bonded.

- o Surety companies, before bonding projects for contractors, need to determine the likelihood of the contractor to finish the project. Basic underwriting criteria usually include the contractor's assets, financial strength, established lines of credit, history of subcontractor and labor payments and experience in the type of project.

- o Underwriting criteria are not a matter of law but of standard and sound business practice by surety companies.

- o U.S. surety companies, however, are understandably reluctant to bond a contractor based on the contractor's activities and assets outside the United States. Similarly, U.S. contractors without the requisite experience or assets also have problems being bonded.

- o Again, this is a business problem for foreign construction contractors. No law or regulation will change the perceived level of risk a surety company faces.

Possible Solutions for Korean Contractors

- There are ways for Korean construction contractors to deal with the experience problem. For example:

  -- Korean contractors could complete projects in which bonding is not required to gain the needed experience. (Almost all major projects in the U.S. require bonding, however.)

  -- A Korean contractor could enter into a joint venture with a contractor that meets U.S. experience and other criteria.

  -- On private projects (and possibly some state projects), Korean contractors may be able to get bonding from an Korean-based insurer upon waiver from the contracting organization (owner).

  -- A Korean contractor can have a Treasury-approved surety company reinsure the risk with a Korean-based insurer. (The contracting organization would likely have to approve this.)

  -- The bond could be placed with a U.S. Treasury-approved surety company that also has an insurance office (branch, subsidiary, affiliate) in Korea. This insurer may be in a position to better evaluate the foreign experiences of the contractor.

  -- The bond could be placed with a Treasury-approved surety company that is a U.S. subsidiary of a Korean insurer. (We understand that Korean insurers are licensed in New York and California.)

REVISIONS TO ROK'S RESPONSE TO USG QUESTIONS

I. DEREGULATION OF INVESTMENT

A-2. Please replace our response with the following:

"Among the procedures described above, all steps other than establishment of corporation or investment of cash, obtaining of business permit according to individual laws and construction of factory (in the case of manufacturing business) apply only to foreigner investors."

A-7. Please replace our response with the following:

"Paragraph 3 of Article 7 of the FCIL requires that the MOF determine whether to approve a foreign investment in restricted businesses in consultation with the line ministry. The line ministry can affect MOF's decision by expressing an objection to the proposed investment. But the consultation with the line ministry is necessary to secure a prudent decision. At present the MOF is not considering revising the line ministry provision."

A.8 Please replace our response with the following:

"The notification and approval procedure under the FCIL concerns only introduction of foreign capital and does not involve reviews on compliance with business permit requirements under individual laws. If the reviews under individual laws were to be conducted at the stage of introduction of foreign capital, it would only make the introduction procedure more cumbersome and cause delays. This would add to the burdens on foreign investors.

In addition, compliance with business permit requirements should be reviewed after the foreign investor brings in his capital and establishes a corporation. Same procedure applies to domestic investors as well.

B-19. Please replace our response with the following:

"The MOF does not regard holding companies as described by the U.S. side as a separate business and cannot find a proper KSIC classification thereof.

KSIC 65991(investment companies and investment trusts) stands for non-bank financial institutions which raise short-term capital from the general public through issuance of debenture, paper or other certificates of liability and invest in securities and other financial products.

B-20. Please replace our response with the following:

"Please refer to our response to the question B-19 above."

I-21. Please change "newly issued, unlisted stocks" to "voting stocks."

II. DEREGULATION--GENERAL

B-9. Please replace our response with the following:

"The degree of control over the foreign exchange market after 1998 will be affected by the economic conditions at that time. In view of the fact that Korea will join the OECD by 1996 and the third stage measures for foreign exchange liberalization will be completed by 1997, restrictions on routine foreign exchange transactions are expected to be removed by 1998."

B-10. Please change "the Foreign Bank's Survey" to "a survey on foreign banks in Korea."

D-14. Please add the following sentence before "we have ....":

"At present, there is no restriction on the financing of technology development projects through financial institutions."

E-23. Please replace our response with the following:

"Such restriction on the mode of payment is applied only to agricultural products whose tariff rates exceed ten percent. But agricultural products imported on credits or guarantees granted by the U.S. Commodity Credit Corporation are allowed deferred payment terms, even if the tariff rates are over ten percent."

IV. DEREGULATION--TAXATION

A-1. Please replace our response with the following:

"Deferred payment of assessed taxes is not allowed, even after a complaint is filed. The tax regulations require, however, that the tax authorities inform taxpayers of the results of tax investigations and give taxpayers opportunities to submit their opinions, before issuing notification of assessed tax. In the case of foreign tax payers, the tax authorities go through this pre-review procedure without exception and most disputes between the tax authorities and taxpayers are resolved through this procedure.

Once the notice of assessed tax is issued, however, it establishes a tax obligation. Therefore, procedures to collect a tax obligation should proceed when the assessed tax is not paid within the deadline set by the tax authorities, regardless of whether the taxpayer has filed a complaint.

The cases where a taxpayer's complaint is eventually accepted are fairly rare. If the NTA were to take no measures against tax delinquencies, it would invite an increase in the filing of complaints for the purpose of delaying tax payment and increase the possibility of failing to collect tax obligations.

While the complaint procedures are in progress, the NTA is allowed to seize the properties of the taxpayers in order to secure the tax obligation, but may not auction the seized properties."

-18. Please replace our response with the following:

"During the Five-Year New Economy Plan period (1993-97), the ROKG plans to substantially increase fiscal expenditure to upgrade social infrastructure.

In order to maintain fiscal balance, this investment in social infrastructure will be financed mainly by tax revenues rather than government bonds. In this way, competition for funds will not be serious and the negative effects that the increase in public investment might have on private investment are not expected to be substantial.

From the long-term perspective, investment in social infrastructure will help achieve sustained economic development, by reducing production costs and enhancing productivity. Insufficient investment in social infrastructure, education and environment under the 1980's tight fiscal policy presents a roadblock to economic growth today. Therefore, it is inevitable that the tax income ratio be raised by 3-4 percent.

The expected tax income ratio of 22 to 23 percent in 1997 cannot be said to be very high, considering the level of Korea's per capita income, economic growth rate and the tax income ratio of advanced countries when they were at the stage of development comparable to Korea today."

Part I

As promised at the first round of the DEC meetings, the Korean Government has conducted studies on labor issues, the promotion of joint ventures in third countries and global and regional issues of mutual interest.

As a result of the above-mentioned studies, we wish to propose the following:

Firstly, that labor issues be included as a formal agenda item in the category of Economic Cooperation.

Secondly, that a discussion of the promotion of joint ventures in third countries be included as an item in the category of Industrial Cooperation.

Thirdly, regarding regional and global issues of mutual concern, should any specific issues of cooperation arise which are in line with the DEC and merit substantive discussion, we would like to request that these items be formally included in the agenda items at some point in the future.

For further details, please refer to the attached document.

(첨부1)

Cooperation on Labor Issues

Over the last several years, the rapid democratization of Korean society has strengthened the rights of workers substantially. Consequently, one can find labor disputes, some of them quite serious, in virtually every sector of the economy.

Foreign-invested firms have been no exception. In fact, labor disputes are increasingly cited as one of the main difficulties faced by foreign-invested firms doing business in Korea. This has become a major factor discouraging foreign investment here.

Labor disputes are essentially a matter between private parties, namely workers and their employer. Notwithstanding the private nature of labor disputes, however, there is room for government intervention. As we have seen, prolonged labor disputes can tarnish Korea's image as an attractive place for foreign investors.

In a renewed commitment to openness, the Korean government is willing to discuss even thorny issues such as labor disputes at the DEC. As the United States has much experience in managing often disruptive labor relations, it has much to advise Korea concerning the prevention and resolution of labor disputes.

In addition, we believe it is appropriate to discuss at the DEC the reinstatement of OPIC programs in Korea. While the OPIC's decision in 1991 to suspend its activities in Korea did not have a direct impact on the Korean economy, it risks giving the international community a distorted image of labor rights in Korea. We believe that the much-improved labor situation in Korea, especially after its entry into the International Labor Organization, warrants the immediate restoration of OPIC programs.

Suggested Channel for Consultation

We understand that the U.S. side would like to raise labor issues in connection with economic deregulation. From our perspective, however, labor disputes in foreign-invested firms are not a question of over-regulation. Consequently, discussion of labor issues under the heading of deregulation risks provoking a negative reaction from the Korean public. For these reasons, we would like to address labor issues as part of our discussion on economic cooperation.

With mutual consent, issues with highly-sensitive, political implications could be excluded from the agenda discussion on labor issues.

Promotion of Joint Ventures in Third Countries

As U.S. companies increasingly shift their focus to the dynamic Asia-Pacific region, Korea is emerging as a nation with much to offer as a potential partner for American business.

Geographically, Korea is strategically-located at the hub of Northeast Asia. It enjoys amicable diplomatic relations with all major countries in the region, including China and Russia. Cultural familiarity affords Korean companies a valuable edge in adapting to local conditions.

Korea also possesses the kind of administrative experience and technical know-how which is most welcome in these neighboring giants. Strong exports of Korean capital and intermediate goods to Southeast Asia and China suggest that Korea's medium-level technology is already proving easily applicable in developing countries. Finally, Korea's manufacturing capabilities, supported by a skilled, highly-educated and cost-efficient labor force, can successfully complement the advanced technology as well as financing and marketing abilities of U.S. firms.

Third-country joint ventures constitute a viable arrangement for taking full advantage of the complementary potentials of our two countries. Particularly in the areas of construction, development of natural resources, manufacturing of sophistocated machinery and parts and the marketing/distribution businesses, Korea provides an ideal regional center for future Asia-wide operations of American businesses.

This issue was tabled several times at the Economic Sub-Cabinet meetings of the past. Discussion at these meetings was less than conducive to concrete results, due in no small part to Korea's lukewarm commitment to take necessary measures to improve its business environment. But with Korea's recent drive to upgrade its investment and business climate in close cooperation with the U.S., the obstacles to third-country joint ventures are rapidly being dismantled. We believe that these reforms are creating a most favorable environment for our countries' cooperation in this area.

Third-country joint ventures should be initiated by private businesses, but governments can also play an active role by providing relevant information and improving institutional facilities for such ventures. We would like to discuss the promotion of third-country joint ventures as a sub-item of industrial cooperation, which we proposed to discuss at the DEC as a way to enhance economic cooperation between our two countries.

Part II

In regard to the questions on US anti-dumping measures submitted in writing by the Korean side to the US during the first round of the DEC talks, we are submitting additional questions to you (see attached). The additional questions are in reference to the annual administrative reviews of the outstanding orders conducted by the Department of Commerce.

(첨부2)

Additional Comments and Questions on U.S. Antidumping Measures

In the comments on U.S. antidumping measures which were delivered in writing to the U.S. side during the first DEC meeting, the Korean side pointed out several problems which foreign companies, including Korean companies, face in connection with the imposition of antidumping duties. We would like to further elaborate on one of these problems--namely, the delay of administrative review.

Under U.S. law, antidumping duties are finalized on the basis of the dumping margin of the product actually imported. For this purpose, the Department of Commerce conducts annual administrative reviews of outstanding antidumping orders.

The administrative reviews are often delayed for a substantial period of time, in some cases up to several years. These delays add to the uncertainties of trade as well as to the financial and administrative burdens of the defending company. It also delays the refund process of antidumping duties.

In addition, since the U.S. antidumping law lacks a "sunset" clause such as those provided by the E.C., Australia and Canada, the delays in administrative reviews have a more serious implication. Under the U.S. law, dumping orders can be lifted when dumping below de minimis level of 0.5 percent has been found for three consecutive years. However, the delays in administrative reviews hinder defending companies from taking full advantage of this provision.

The annual review of antidumping orders on Korean color televisions is a case in point. It was on September 20, 1993 that the Department of Commerce announced the final results of its administrative review of antidumping orders on Korean color televisions for the period from April 1, 1990 through March 31, 1991. But the Department of Commerce has yet to publish the final results of its administrative review for the preceding two years from April 1, 1988 through March 31, 1990.

The case of Korean color televisions also illustrates the reduced effectiveness of the revocation provisions due to excessive delays in annual reviews. The dumping margins on color televisions manufactured by Samsung Electronics Co. were found to be below the de minimis level for two consecutive years (from April 1, 1986 through March 31, 1988). But because the Department of Commerce did not publish the final result of its administrative review for the following year (from April 1988 to March 1989) as explained above, the company had to respond to administrative reviews for the ensuing years from April 1989 to March 31, 1989 and again for the period from April 1990 to March 31, 1991. It should be noted that the dumping margin on Samsung's color televisions for the period from April 1, 1990 to March 31, 1991 was found to be below the de minimis level.

In this regard, we would like to know the following:

1. the relevant provisions of the U.S. laws and regulations regarding adminstrative review of antidumping orders

2. the usual timeframe for administrative review (including when it starts, duration, etc.)

3. whether it is possible to seek compensation for damages caused by the delays in administrative reviews

4. whether the U.S. Government has any plan to address the delays in adminstrative reviews

5. whether the U.S. Government has any plan to introduce "sunset" clauses

Part III

We would appreciate it if you would submit to us the US' comments on the concerns that were expressed by Korea in writing at the first round of the DEC meetings. I am sending you a copy of the document for your reference. If possible, I hope that you will let me know when the US will complete its comments.

We would also like to know when the US will submit its proposals on the establishment of counterpart groups, as promised by Mr. Tarullo in his letter to Mr. Sun, dated September 21, 1993.

Regards.

(전4부3)

I. ECONOMIC COOPERATION

1. Industrial Cooperation

The necessity to discuss industrial cooperation at the DEC

o Enhancing industrial cooperation is central to achieving an expanded economic partnership, which is the primary purpose of the DEC.

- The complementarily of the industrial structures of our two nations can best be utilized to the benefits of both countries through the exchange of information, joint ventures and transfer of technology.

- Industrial cooperation is a combination of all these mutually beneficial exchanges between the private sectors of our two economies, and as such is expected to enhance the international competitiveness of both countries.

o Mr. Kim Chulsu, Minister of Trade, Industry and Energy, made a proposal to the U.S. government for enhanced industrial cooperation during his visit to the United States last April. We understand that the U.S. government has been reviewing the proposal and will soon convey the results to our side.

o At the DEC, we hope to establish a framework for expanding bilateral industrial cooperation.

- We may also consider establishing a joint committee composed of representatives of both the government and private sector, in order to develop concrete programs for cooperation.

Explanation of Korea's preparation for expanded Korea-U.S. industrial cooperation.

o Our original plan was to create a Korea-U.S. Joint Fund for industrial cooperation. But in consideration of budgetary problems in the U.S., we have changed the plan and started to raise the funds independently.

- We plan to establish a Fund of US$20 million by 1997, with contributions from both the government and private sector. We have already secured US$4.3 million, including US$1 million from the 1994 government budget.

o We are also working on the establishment of the Korea-U.S. Industrial Cooperation Foundation.

- The Foundation will have the authority to manage the Fund. Establishment of the Foundation is now being arranged by the Federation of Korean Industries, one of the major contributors to the Fund.

- As soon as the details of the Fund and operation plan are determined, we plan to implement the following programs:

1) Financial support for feasibility studies and drafting of business plans for individual Korea-U.S. joint projects, such as joint production, technology tie-ups and joint ventures in third countries, with a particular emphasis on high-tech fields.

2) Financial support for holding U.S.-Korea techno-marts, symposiums and business consultations between the industries of our two countries.

3) Exchange of personnel between U.S. and Korean businesses.

o The Korean government plans to build Free Investment Zones (FIZ).

- In order to encourage foreign investment in high-tech industries, the government plans to build two FIZ's in the Seoul metropolitan area.

- Foreign investors in the FIZ will be granted a number of benefits, including easier land acquisition, streamlined procedures for investment approval and factory construction and greater access to off-shore financing.

- The total cost of building the FIZ's is estimated at US$100 million.

We ask the USG's active cooperation in Korea-U.S. industrial cooperation.

o We ask the U.S. government to positively consider participating in the creation of the Fund and to provide cooperation for the projects to be carried out by the Foundation.

2. Science and Technology Cooperation

Discussion of science and technology cooperation at the DEC

o The Agreement on Science and Technology Cooperation (STA) went into effect on July 29. We understand that discussions on establishing a Joint Committee on Science and Technology as set forth in the agreement have since been under way between the relevant authorities of the two countries.

o Through the DEC, we want to give a jump start to the work of the Joint Committee and discuss ways to enhance science and technology cooperation until the Committee is formed and begins operation.

Establishment of the Joint Committee and timing of the first session

o We hope to hold the first meeting of the Joint Committee at the earliest date possible.

 - There has been no legal basis for Korea-U.S. science and technology cooperation for about four years since the old agreement expired in October 1988. It was only about two months ago that the new agreement entered into force. It is with this sense of urgency that we wish to renew our science and technology cooperation, including the various programs envisaged by the Agreement, as soon as possible.

3. Mutual Exemption of Social Security Tax

Korean citizens temporarily staying in the United States to work for U.S. branches or subsidiaries of Korean companies must pay Social Security Payroll Tax (SSPT) under the provisions of Federal Insurance Contribution Act (FICA), while at the same time paying dues to the Korean government in accordance with Korea's National Pension Act.

According to the U.S. system, they must pay Social Security Payroll Tax for at least 10 years to receive benefits. But foreigners working on a short-term basis in the U.S. are also obliged to pay the tax, even though it is not evident that they will enjoy the benefits.

Since an employer must share 50% of the tax, it has become a financial burden upon the company as well as the employees who are saddled with additional income tax.

One way to solve this problem is to conclude a social security agreement, granting an exemption from the SSPT to the citizens of one contracting party staying in the other contracting party on a temporary basis.

- o The United States has already signed a similar agreement with 14 nations, including Austria, Belgium, Italy and the U.K.

4. Mutual Recognition of Test Results

We propose to discuss ways to mutually recognize the test results of the other country's testing institutions in the areas of telecommunications equipment, certain food and agricultural products and manufactured products. The scope and degree of the mutual recognition may be decided through further consultations under the framework of the DEC.

- o With regard to telecommunications equipment, the test results for type approval or authorization of a certain number of testing institutions designated by the U.S. FCC and Korea's Radio Research Laboratory (RRL) may be mutually recognized. Eventually, both countries may aspire to agree that a type approval or authorization itself issued by the one country's authorities concerned may be automatically accepted by the other government.

- o Likewise, test results for certain food and agricultural products made by the FDA and official testing institutions designated by Korea's MAFF may be mutually accepted.

- o As for the mutual recognition of the conformity test results for manufactured goods, we would like to start our experiments with fasteners, i.e. nuts and bolts. We wish to work on the arrangement under which test results of the testing institutions authorized by the U.S. NIST and Korea's IAA are mutually recognized.

The mutual recognition of test results or mutual accreditation of testing bodies would save time and money for traders of both countries by avoiding double testing. It would also prevent potential disputes that may arise from the differences in testing methods, testing equipment and analytical techniques between the testing institutions of both countries. Quite recently, we experienced how enormous damage could be when a product was denied import clearance because of test failure after arrival at the port of entry.

This issue was included in the recommendation of the PEI in the form of asking both parties to engage in consultations to this end. We note that there was no tangible progress in our efforts.

- o We think this is exemplary of the concrete way of promoting the economic cooperation between our two countries. As such, we wish to agree upon the work plan for this project under the DEC.

- o Particularly, we wish to see prompt and tangible progress in the mutual recognition of telecommunications equipment in that this project was set forth originally in the 1992 telecommunications agreement and again in the PEI recommendation.

II. DEREGULATION

1. Anti-dumping Investigation

Problems of anti-dumping investigation system

o Since the late 1970's, various Korean products have been subject to U.S. anti-dumping measures. In the 1990's, Korea's major exports such as stainless steel pipe, DRAM semiconductors and steel products have been the main targets. Only a few months ago, there were press reports that the U.S. automobile industry is considering filing a petition for anti-dumping investigation against Korean cars, another major export item of Korea.

o Anti-dumping investigations and imposition of anti-dumping measures have a serious, disruptive effect on trade.

- A decision to start an investigation itself can be a blow to the target company. Uncertainties over the future may cause an abrupt decline in purchase orders, and the defending company may voluntarily restrain anti-dumping investigation is often abused as a legal and administrative barrier to trade.

- Critics point out that the investigations have often been conducted in an arbitrary and unfair manner; and that the implementation of the anti-dumping measures does not reflect the interests of the defending companies in a balanced way.

o Specific problems concerning U.S. anti-dumping investigations are well-documented.

A very preliminary survey of a few Korean companies which have recently been subject to U.S. anti-dumping investigation confirms the existence of these problems.

o Arbitrarily high minimum rates of profit and general expenses were applied in assessing the fair market value of Korean steel products.

o The scope of the semiconductors subject to anti-dumping measures were expanded to include so-called later generation products which have yet to be produced.

o Dumping margins for semiconductors and steel products were revised again even after the final determination had been made.

o Color TV's have been subject to anti-dumping measures for more than ten years even though the dumping margin is minimal and there is no substantial domestic production.

(General problems of the U.S. anti-dumping system)

- o Procedural problems
  - Arbitrary determination of status and initiation of investigation without sufficient evidence
  - Requirement of excessive amount of information in a very short period of time
  - Frequent use of Best Information Available (BIA)
- o Problems in the calculation of dumping margin
  - Disregard for negative dumping
  - Exclusion of sales below cost in assessing fair market value
  - Arbitrary minimum rates for calculating constructed value
  - Lack of symmetrical price adjustments
  - Lack of appropriate adjustment for exchange rate fluctuations
- o Problems in the imposition of duties
  - Non-transparency in applying anti-circumvention measures
  - Unjust expansion of the scope of the products subject to anti-dumping duties
  - Lack of Sunset Clause and delay of annual review

Discussing the anti-dumping investigations at the DKC

- o Anti-dumping investigations have a serious negative impact on overall Korea-U.S. economic relations as well as bilateral trade.

We hope to discuss the procedures and policies of our two countries regarding anti-dumping investigations, especially the problems identified in the course of U.S. anti-dumping investigations of Korean products, and ways to improve them.

2. Section 301

We are of the view that for the DEC efforts to succeed, it is vital for the United States to help the Korean government beef up its domestic supports. To this end, we expect the U.S. government to do its best to display the merit of the DEC by refraining from imposing such confrontational measures as Section 301 during the DEC process.

o Unilateral measures such as Section 301 have intrinsic limites in fundamentally resolving trade issues. I believe that realization of these limits has provided an impetus for the more systematic approaches such as the DEC and the PEI.

o Domestically, the Korean government has made efforts to gain public support for the DEC by selling it as a mutually beneficial vehicle to amicably resolve bilateral trade issues and to bolster economic partnership between our two countries. If the U.S. government takes confrontational measures such as Section 301 during the DEC process, the Korean people will feel betrayed and the Korean government will be deprived of any logic with which to continue the DEC.

o In this context, we strongly request that the U.S. side restrain from taking any aggressive measures during the period of the DEC operation (including its implementation period). Specifically, we suggest that:

- the USG not take any unilateral trade measures during the DEC process concerning issues addressed by the DEC; and,

- the USG also commit itself to refraining from taking aggressive measures with regard to the issues falling outside of the DEC agenda to the maximum extent that the U.S. statutory constraints permit.

We would also like to discuss the legal and procedural aspects of the Section 301 investigation.

o We are prepared to review the pros and cons of the Section 301 measures: 1) their efficiency as a tool to open foreign markets, 2) comparison with systemic approaches such as the DEC. and 3) the rationale for taking measures inconsistent with, or beyond the scope of, the GATT rules.

3. FMC Investigations of Foreign Maritime Practices

Korea has been the subject of two FMC investigations. Since the late 1980's Asian countries including Korea have been the main targets of FMC investigations against alleged unfair maritime practices of foreign countries. The scope of the FMC investigations, which had been limited to areas directly related to the operation of shipping companies, has been expanded to include maritime services.

We have identified the following problems with regard to the FMC investigations.

- Like Section 301 investigations, this is a unilateral measure in two respects: The FMC makes a unilateral judgement as to whether the policies and practices of foreign countries are fair, and it is also empowered to take retaliatory measures unilaterally, if it so chooses. As long as maritime services remain beyond the scope of the GATT, the subject country has no means of redressing an unfavorable decision.

- Most of the recent investigations concern the policies, regulations and practices of foreign governments. However, the FMC requires private shipping companies of subject countries to submit their comments, adding to their administrative burdens.

- The proposed measures are sometimes disproportionately punishing compared to the alleged unfair practices. For example, the proposed rules against the Korean government's restriction of trucking services by foreign shipping companies resulted in a virtual ban on port call by Korean carriers.

- The government subject to the investigation cannot negotiate with the FMC directly. It has to negotiate with the Maritime Administration, which only indirectly participates in the FMC's decision-making process by submitting its own comments. This prevents the subject country from handling the FMC's investigation effectively.

o The FMC's investigations are insulated from government-to-government negotiations. Sometimes this results in the continuation of investigation procedures even after the two governments have reached an agreement. For example, the Korean government took all the necessary measures to redress the foreign investment restriction in maritime services. Consequently, the Maritime Administration asked the FMC to discontinue the investigation. Yet, the FMC replied by announcing an extension of the proposed measures.

o To sum up, the FMC acts as more of a representative of the U.S. shipping industry rather than an impartial judge. Consequently, the U.S. shipping industry increasingly resorts to FMC investigations even when the same issue may be referred to other judiciary or quasi-judiciary procedures including traditional Section 301 investigations.

4. Transfer Pricing

The recent move by the U.S. to overhaul its tax system concerning transfer pricing between related companies is cited by many Korean companies as one of the most serious uncertainties of doing business in the U.S.

- Let me make it clear that we have no intention whatsoever to oppose prevention of tax-evasion executed through the manipulation of transfer prices.
- But at the same time, we think it opportune for the DEC to seek to remove those factors which could adversely affect Korean investment in the U.S.
- Review of whether the new transfer pricing regulations and audit practices are consistent with the OECD guidelines on transfer pricing and related provisions of the Korea-U.S. tax treaty will be the most useful initial step for zeroing in on the problem.

Our most immediate concern is about the "Temporary Regulations Interpreting the Change in Section 482 of the IRC".

- The Temporary Regulations have introduced new methods of calculating arm's-length prices : Comparable Profit Method (CPM) and Profit Split Method (PSM).
- These new methods are major deviations from the existing methods which were recognized by the OECD guidelines and adopted by other advanced countries. And yet, due to their administrative simplicity, they stand a good chance of being selected as the best methods.
- The difference between the newly-adopted U.S.

methods and the existing methods of other countries may increase the chances for double-taxation and disputes between tax authorities.

- The new methods tend to favor standardized criteria and thus disregard the unique business practices and management styles of foreign countries. We are concerned that this may work as another disadvantage to foreign companies.

The so-called "earnings stripping" provisions introduced through the Budget Reconciliation Act of 1989 have been criticized by many foreign countries for not necessarily allowing the interest paid on arm's-length basis to be deducted from taxable income.

- This is a major deviation from the internationally accepted arms-length standard.
- This dealt a severe blow to U.S. subsidiaries of Korean companies, which are usually required by U.S. banks to provide repayment guarantees issued by their holding companies. Yet the interest paid for such loan arrangements is not guaranteed to be deductible from taxable income.

Information requirements of the U.S. Tax Code have become increasingly complex and burdensome for foreign companies.

- The ROKG is especially concerned about the requirement for record-keeping, which may extend offshore to foreign parent companies. As a clear example of the extraterritorial application of U.S. regulations, this requirement multiplies the complexity of doing business or investing in the U.S. for foreign companies.
- The reporting requirements under laws such as the

Omnibus Budget Reconciliation Act of 1990 apply retroactively to all open tax years and to all records in existence at the time of the enactment of the Act. These extensive reporting requirements are tying up the hands of the administrative staff of foreign-controlled corporations in the U.S. with excessive paperwork.

In January 1993, the U.S. government issued the Proposed Regulations under Code Sections 6662(e) and (j), which will make the reporting requirements even stricter and raise the penalties for failure to comply with these new requirements.

o The ROKG is of the view that these proposed regulations should be discarded or at least modified.

The tax audits pose sizable problems to foreign firms.

o The average duration of such audits is more than two years, but one company reports that an audit originally launched in 1982 is still in the pipeline.

o We are also concerned about the statistics which indicate that the incidence of tax audits is much higher than the average for foreign-controlled corporations.

- 2 -

Economic Deregulation Under the New Administration

1. Background

Economic deregulation is one of the primary objectives of the Five-Year Plan for a New Economy, which the Korean Government launched in July. The Plan will serve as the general framework for economic deregulation over the next five years, thus encouraging participation and inducing creativity from the private sector. Some groundwork has already been laid through the precursor to this Plan, the 100-Day Program for a New Economy, which was initiated soon after the inauguration of the new Administration. The Plan will continue and expand upon the deregulation measures under the 100-Day Program.

Two basic principles serve as the driving force behind the pursuit of deregulation. The first is the realization that the directives and controls exercised by past administrations, if continued, will stifle the autonomy and creativity of the private sector. Without a strong private sector initiative as the primary engine to keep the economy moving at this critical juncture, Korea's objective to move up to an advanced economy will be thwarted. Deregulation is the condition for private sector autonomy. Furthermore, complex and nontransparent administrative regulations tend to give too much room for subjectivity and, hence, may be breeding ground for corruption. In realizing the objectives of the "Clean Government" policy of the new Administration, deregulation can play an important role in rooting out corruption.

Therefore, this deregulation drive aims at greater private-sector autonomy, improved transparency, and a better environment for doing business. In identifying the areas for deregulation, the government, unlike its previous efforts, sought suggestions from the private sector. This improved process assured a greater transparency in making the reform. Because the private sector, the beneficiary of deregulation, could participate in the formulation process, many of the deregulation measures were drawn up from the viewpoint of the private sector.

However, the Korean Government believes the success of this reform in deregulation hinges on changes in attitude of two groups: government officials and members of the private sector. As for the former, successful deregulation will depend upon the support of the government officials who are carrying out these measures, especially those at the working level. The government will endeavor to reform the attitude and way of thinking of the individual officials

As for the latter, a private sector which is willing to shoulder greater responsibilities is crucial for developing an economy, particularly one that is undergoing such comprehensive deregulation. Since deregulation implies a greater infusion of the market mechanism and the accompanying increase in competition and private-sector autonomy, this sector of society will need to step up and play a more responsible role in this deregulated environment.

2. The Initiation Mechanism for Deregulation

Private companies, business associations, the press, and the general public, all of which have experienced difficulties arising from excessive regulations, supported the deregulation reforms by offering constructive suggestions, providing pertinent information, and participating actively in the reform's formulation. Some of the leading groups that have contributed to this process include the Korea Federation of Industries, the Korea Chamber of Commerce, the Federation of Small and Medium Industries, the Korea Foreign Trade Association, and the Federation of Labor Unions. These organizations were helpful in identifying the inconveniences and bottlenecks in business activities that their members faced, and this information along with their requests have served as a backbone to the deregulation plan.

In keeping with the New Economy's basic principle of greater autonomy, local public administrations as well as government-sponsored research institutes also played an important role. Their spot-oriented recommendations and closer attention to the details of deregulation were invaluable to the formation of this reform by the central government, which might have otherwise overlooked these details.

In addition to incorporating the recommendations of these business associations, local governments, and research institutes, the central government made every effort to reflect creative ideas from the general public. The government took an aggressive approach to collecting and analyzing these ideas by opening up an economic counseling call line that provided the private sector with direct contact with the Economic Planning Board (EPB). Many of these ideas and requests were also aired through major newspapers, ultimately reaching the attention of the administration.

Opening up lines of communication spread out to include the foreign community as well. To induce their participation in the deregulation process and to raise their understanding of it, the EPB sent letters and explanatory notes containing information about the process to major foreign embassies and business organizations in Seoul. Through such correspondence, the Korean Government welcomed and is welcoming comments, suggestions, and requests from this community.

As a result of this outreach effort by the government, requests regarding deregulation came pouring in from the private sector, proving this sector to be the main beneficiary behind these deregulation efforts. In fact, 642 out of the total 924 request forms received by the government, or over 70% of total requests, came from the private sector, with over 50% of the total figure, or 475 requests, coming from the private organizations.

	Private Sector				Government			
	Private organizations	Economic counseling calls	Others	Subtotal	Central government	Local government	Subtotal	Total
· number of requests on deregulation by source	475	35	132	642	135	147	282	924
(percentage)	(51.4)	(3.8)	(14.3)	(69.5)	(14.6)	(15.8)	(30.5)	(100.0)

To effectively reflect these requests and implement them in an adequate manner, the government established the Committee for Administrative Deregulation in Economic Areas, chaired by the Deputy Prime Minister/ Minister of Economic Planning. The committee was composed of high-level members from several different agencies and organizations, including ministers who handle affairs related to the economy and chairmen of business associations. Variety was sought in composing this committee so that deregulation could be protected from domination by any specific ministry and its interests. One of the tasks of the committee was to determine and effect the scope, timing, and method of deregulation through a working group made up of members from business circles, academia, and various ministries.

3. Major Areas of Deregulation

The following list denotes the areas in which the Korean government is currently pursuing its deregulation efforts. Overall improvements in administrative procedures will buttress the specific deregulation measures.

A. Relaxation of Entry Barriers.
B. Deregulation of Business and Factory Establishment Procedures.
C. Deregulation of Production, Distribution, Imports, and Exports.
D. Reform of Regulations on the Environment and Public Health.
E. Institutionalization of Administrative Reform.
F. Foreign Direct Investment Related Issues.
G. Miscellaneous

4. Five-Year Timetable for Deregulation

A. 1993

In 1993, the government will tackle the areas of excessive administrative regulations and will seek an effective monitoring mechanism for deregulation measures under implementation. With regard to the former, the government will select major issues in which the private sector has shown keen interest, such as land use and factory establishment, and look for ways in which to deregulate these areas. As for the latter, joint monitoring teams composed of government officials and members from the private sector will evaluate the results of deregulation by visiting local regions as well as front-line government agencies.

In addition, the government will explore typical administrative behavior and practices that have functioned as regulations, and suggest needed changes or solutions for any problems it may find. The cases collected through this study will be published in a booklet and distributed to line ministries to reinforce in the government agencies the need for reform in those areas.

B. 1994

A comprehensive program for deregulation will be formulated in early 1994. It will specify the major areas that need to be deregulated and suggest prescriptive measures to carry it out. Furthermore, the government will study the feasibility of the Basic Law for Deregulation in order to facilitate the deregulation process in a steady and consistent manner.

C. 1995-1996

During 1995 to 1996, the government will focus on streamlining administrative procedures as well as following up on the deregulation measures. It will continue to change the attitude and behavior of the officials in the line ministries in order for deregulation efforts to take root. Finally, the government will try to legislate the Basic Law for Deregulation according to the results of the study conducted in 1994.

D. 1997

In the final year, the government will conduct an overall evaluation of the results of this five-year program and try to successfully conclude it. In addition, a mechanism for institutionalizing deregulation will continue to be sought, so that deregulation will be maintained as one of the major economic reform packages for the future.

5. Details on the Deregulation Measures

A. Relaxation of Entry Barriers

<table>
<tr><th>Area of Deregulation</th><th>Deregulation Measures</th><th>Agency in Charge and Target Date for Implementation</th></tr>
<tr>
<td>Foreign Investment</td>
<td>

- Gradually liberalize 132 businesses, in accordance with the Five-Year Foreign Investment Liberalization Plan.

<table>
<tr><th></th><th></th><th>To be liberalized</th><th>To be reviewed</th></tr>
<tr><th></th><th>1st half of 1993</th><th>1993-1997</th><th>after 1997</th></tr>
<tr><td>· restricted businesses</td><td>224</td><td>132</td><td>92</td></tr>
<tr><td>· businesses with joint venture requirement</td><td>50</td><td>43</td><td>7</td></tr>
<tr><td>total</td><td>274</td><td>175</td><td>99</td></tr>
</table>

- Liberalized Businesses by Sector

<table>
<tr><th></th><th>'93</th><th>'94</th><th>'95</th><th>'96</th><th>'97</th></tr>
<tr><td>· agriculture, fishery, mining</td><td>5</td><td>5</td><td>1</td><td>3</td><td>9</td></tr>
<tr><td>· manufacturing</td><td>2</td><td>-</td><td>-</td><td>2</td><td>5</td></tr>
<tr><td>· services</td><td>9</td><td>22</td><td>34</td><td>13</td><td>22</td></tr>
<tr><td>total
(ratio)</td><td>16
(85.1)</td><td>27
(86.9)</td><td>35
(89.6)</td><td>18
(90.9)</td><td>36
(93.4)</td></tr>
<tr><td>* joint venture requirement</td><td>-</td><td>13</td><td>1</td><td>29</td><td>-</td></tr>
</table>

</td>
<td>

· Ministry of Finance (MOF)

· From 2nd half of 1993 to 1997

</td>
</tr>
</table>

Area of Deregulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Futures Trading	- Reduce restrictions on the eligibility of foreign futures trading firms which may contract with futures trade brokers, by revising the Regulation on Futures Trading of Foreign Commodities. - Abolish the limit of two foreign futures trading firms allowed per domestic futures trade broker by revising the Regulation on Futures Trade Brokerage and Management.	· Economic Planning Board (EPB) · April 1993
Tobacco Sales	- Revise Article 11-1 of working rules on the Tobacco Business Act to ease the eligibility requirements for designating retailers within business complexes. By doing so, large supermarkets and entertainment spots where singing or dancing is allowed can become designated retailers.	· MOF · June 1993
Retail of Imported Beef	- Abolish existing restrictions on the establishment of special shops for imported beef.	· Ministry of Agriculture, Forestry, and Fisheries (MAFF) · March 1993
Feed	- Amend Article 9, paragraphs 1 and 7 of the Feed Control Act, in order to shift feed manufacturers from the current approval system to a registration system, and abolish the notification requirement for the sale of imported feed.	· MAFF · End of 1993
Agrochemicals	- Amend the Agrochemical Management Act in order to convert the current licensing system for the manufacture and import of agrochemicals to a registration system to promote participation in this sector.	· MAFF · End of 1993
Wholesale and Retail Shops	- Switch from the approval system to the notification system in handling the establishment of wholesale and retail shops with floor area under	· Ministry of Trade, Industry, and Energy (MOTIE)

Area of Deregulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Maritime Transport	- Relax the registration requirement for international maritime transport agents by revising the implementing regulations of the Maritime Trade Law.	· Ministry of Transportation (MOT) · June 1993
	- Lift the 50% limit on foreign equity participation in maritime businesses and ease restrictions on the allowable scope of services offered by foreign maritime transport agents.	· April 1993
	- Expand the scope of the notification system to include the establishment of overseas branches of domestic maritime transport service companies, and amend the pertinent legislation to reflect this change in practice.	· Scope expanded in June 1993 · Legislation to be amended in 1994
	- Gradually change from the licensing system for maritime transport businesses to a registration system via a two-stage process. .1st stage: encourage new entry into this sector. .2nd stage: review to adopt the registration system.	· 1st stage: 1993-1995 · 2nd stage: 1996
Railway Transport	- Convert the present licensing system for railway cargo handling services to a registration system by amending the Railway Cargo Handling Law.	· MOT · End of 1993
Telecommunications	- Relax restrictions on the business scope of value-added service providers by revising the implementing regulations of the Telecommunications Business Law.	· Ministry of Communications (MOC) · 1995 or later
	- Formulate a system that will ensure fair competition between general service providers and value-added service providers by July 1993. This fair trade system will enter into force in 1995.	
	- Ease restrictions on the use of leased lines.	
Regional Restrictions on Petroleum Product	- Ease region-specific restrictions on petroleum product distributors so that an applicant who has satisfied the facility requirements of the region in which he seeks his license may receive it [illegible]	· MOTIE · September 1993

B. Deregulation of Business and Factory Establishment Procedures

Area of regulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Alien Land Acquisition	- Allow foreign-invested firms to acquire land for legitimate business purposes. · Major improvements in the bill to be submitted to the National Assembly: i. an expanded scope of allowable land acquisition through adoption of a negative list system (agriculture, fishery, mining, and real estate related services will be excluded); ii. a transparent definition of "legitimate business purposes"; and iii. a sixty-day maximum limit in processing an application for approval.	· Ministry of Construction · Bill to be submitted in 1993
Factory Construction	- Legislate the "Special Act for Business Deregulation," which would make the application process for factory construction transparent and reduce the processing period required when granting approval. · For improved transparency, MOTIE announced a notice in which 38 laws and regulations on factory construction have been consolidated. · Approval will be delegated from various central agencies to municipal authorities in order to provide "one-stop service" for businesses. · Time required for processing applications for approval will be reduced to 45 days, from the previous 1 to 2 years. · The Business Regulations Investigation Committee will serve as an ombudsman to investigate individual cases and seek to improve administrative regulations.	· MOTIE · July 1993

Area of Deregulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Manufacturing Plants	- Amend the Law on the Establishment of Manufacturing Plants in order to: · rationalize the eligibility requirements for the establishment of plants in urban areas according to considerations of pollution and the plant's effect on the local population (Article 28); . allow new and small firms to start business in the apartment-type manufacturing plant in the controlled Development Subregion of the Capital Region. (Article 26 and 27).	· MOTIE · End of 1993
Air Transport	- Not require prior approval for minor changes in commercial agreements between airlines, such as the setting of special airfares and the simple extension of the effective period of contracts. Such changes will be possible on a post-report basis.	· MOT · March 1993
Maritime Transport	- Through revision of the Presidential Decree on the Freight Transport Promotion Act, relax regulations concerning the registration of inter-modal transportation service firms by allowing the leasing of container yards and container freight stations. Only ownership of these facilities had been permitted.	· MOT · June 1993
Business Hours	- Ease the operating hours of food servicing establishments, etc., after midnight. - Ease the restriction on the business hours of auxiliary services in tourist hotels.	· Ministry of Health and Social Affairs (MOHSA) · October 1993

C. Deregulation of Production, Distribution, Import, and Export

ea of ᴗregulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Type Approval and EMI Tests	< Telecommunications Equipment > - Exempt wireless telecommunications equipment/EMI approval-required equipment of the same model as those that were already approved from additional tests and fees. - Simplify the procedures for determining whether telecommunications meet Korea's technical criteria.	· MOC · Aug 1993 .May 1993
	- the MOC supervise type approvals and EMI tests for telecommunications and information equipment; or the IAA could be in charge of type approvals and EMI tests for heaters and electrical appliances. - Seek a comprehensive plan to simplify the current EMI tests and the different type approvals required by various agencies. * A possible direction for improvement could include designating one representative agency to be in charge of approvals and tests in a given sector, based on the fundamental objectives of the regulation in question.	· MOC, IAA · Indefinite: this is a long-term project.

Area of Deregulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Distribution	< Bargain Sales > - Extend the duration of special bargain sales by distributors from 40 days to 60 days by revising the Public Notice on the Types and Standards of Unfair Trade Practices: Special Bargain Sales. < Free Premium Offers > - Extend the period in which free premiums may be offered from 20 days to 40 days and abolish the current twice-per-year limit by revising the Public Notice on the Types and Standards of Unfair Trade Practices: Free Premium Offers.	· Korea Fair Trade Commission (KFTC) · July 1993
	< Large-Scale Shopping Centers > - Narrow the scope of shopping centers subject to a government licensing requirement when opening, from centers with floor area of $1000m^2$ or more to those of $3000m^2$ or more, and delegate approval for the construction of new shopping centers with floor area of between $3000m^2$ and $6000m^2$ to local authorities.	· MOTIE · 1994
Trading Firms	- Switch from the permission system to the registration system for the establishment of a new trading firm (Article 7 of the Foreign Trade Act). - Delegate the responsibilities of registration and registration renewal of trading firms to the Korea Trade Association. - Simplify documentation requirements in the registration process of trading firms by excluding the personal history of board members and the company by-laws. - Reduce the processing time for registration of foreign trading firms from 5 days to 1 day.	· MOTIE · July 1993

Area of Deregulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Trading Firms (cont.)	- Ease the requirement for granting the status of "effective trading firm," from US$500,000 or more in annual exports or imports to US$50,000 (Article 10 of the Presidential Decree on the Foreign Trade Act). - Permit firms which conduct business activities in the agriculture and forestry sectors to conduct type B trade business (Article 8 of the Decree).	· MOTIE · July 1993
Export Procedures	- Introduce a blanket approval system that will simplify export procedures for repeated export of the same product (Article 25-2 of the Presidential Decree on the Foreign Trade Act). - Introduce exemption of export approval for exports valued at 20,000 or under.	· MOTIE · July 1993
Import Procedures	< Research and Development Equipment > - Abolish the approval requirement for the import of R&D equipment valued at over US$100,000.	· Ministry of Science and Technology (MOST) · June 1993
	< Telecommunications Equipment > - Reduce documentation requirements for the import of wireless telecommunications equipment from 7 documents to 1, and reduce the processing time from 5 days to 1.	· MOC · March 1993
	< Foods > - Reduce the documentation requirements for food imports by revising Article 11-1 of the implementing regulation of the Food Sanitation Act. - Streamline the inspection system for imported livestock by consolidating food safety inspection procedures with the livestock inspection procedures conducted by MAFF.	· MOHSA · July 1993

Area of Deregulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Import Procedures (cont.)	< Chemicals > - Plan to review deregulation measures on Toxicity Examination system. - Expedite the clearance of chemical substances imported into Korea before Feb. 8, 1991 by submitting certification document convincing that they had been imported prior to Feb. 8, 1991. In case that those chemicals are not on the "Existing Chemicals List, importers should register to MOE after clearance.	· Ministry of Environment (MOE) . End of 1994 . March 1993
Customs Clearance	< Clearance Procedures > - Reduce documentation requirements pertaining to the country of origin and ease the requirement for a mark of origin, by revising the Korea Customs Administration's (KCA) working guidelines on countries of origin. - Reduce inspections of exports and imports. - Permit sample goods valued under 100,000 won (US$125) to be cleared without levying taxes. - Expand the coverage of goods cleared in their containers without being moved to a container yard, by revising Article 2-0-5 of the KCA's working guidelines.	· MOF · June 1993
	<Revision of the Customs Act> - Allow importers to pre-file imports before entry into port, by amending Article 138 of the Customs Act. - Amend Article 137-2 of the Customs Act to allow importers to remove commodities from the holding area before paying customs duties if the importer posts guarantee bonds.	.MOF .End of 1993

D. Reform of Regulations on the Environment and Public Health

·ea of .regulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Medical Supplies, Pharmaceuticals and Cosmetics	- Reduce the coverage of the pretesting requirement for medical instruments and equipment. - Exempt antibiotics and their ingredients from the state drug testing list, thereby promoting the sale of pharmaceuticals. - Reassign quasi-drugs and simple first-aid items, such as band-aids and cotton, from the approval system to the registration system, by revising the implementing regulation of the Pharmaceutical Act. - Lift the item notification requirement for cosmetics but maintain the classification approval system, by revising the implementing regulation of the Pharmaceutical Act. Previously, both had been used.	· MOHSA · June 1993 . To Expedite according to revising the implementing regulation of the Pharmaceutical Act. . June 1993 . June 1993
	- Eliminate the registration requirement for the sale of first-aid items. Items such as gauze and band-aids could then be sold in supermarkets.	· MOHSA · December 1993
Food Sanitation	- Amend Article 22-2 of the Food Sanitation Act to phase out an approval system which stipulates that food manufacturers must obtain government approval prior to the manufacture of new food products. - Extend the grace period of laboratory test from 1 year to 1-3 years for foods widely recognized as safe, by revising Article 11-5 of the implementing regulation of the Food Sanitation Act.	· MOHSA · July 1993 . July 1993
	- Convert current system from the quality management to sanitation, through revision of the official book of Food and Food Additives.	· MOHSA · December 1993

Area of Deregulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Environment	< Environment Experts >	
	- Relax legal provisions requiring that firms hire an environment expert.	· MOE · July 1993
	< Waste Management >	
	- Reclassify "specified wastes" non-harmful to human health as "general wastes".	· April 1994
	< Noise and Vibration Standards >	
	- Relax approval requirements on allowable noise and vibration levels in industrial complexes.	· MOE · End of 1993

E. Institutionalization of Administrative Reforms

Area of Deregulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Basic Law on the Relaxation and Rationalization of Government Regulations	- Consider legislation of the Basic Law to do the following: · establish the principles and criteria for deregulation and rationalization of government regulations; · curb the practice of establishing new regulations, and adopt a post-evaluation system to rationalize deregulation; and · process applications for licensing or approval within the processing time stipulated in the regulations, and regard the license or approval as granted if processing exceeds this time without adequate justification.	· EPB · 1994 or 1995

F. Foreign Direct Investment Related Issues

Area of Deregulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Foreign Direct Investment Related Issues	- Shorten the processing time for handling notification of foreign direct investments and technology inducement contracts specified under the FCIA.	.MOF .March 1, 1994
	- Simplify the approval procedures for foreign investment and the tax reduction procedures, thus reducing the processing time.	.March 1, 1994
	- Allow foreign investors to hold more than 50% of an investment association's shares.	.July 1, 1993
	- Amend Article 27 of the FCIA so as to switch from the current approval system to a report system in regulating the sale of foreign capital, induced through a public loan agreement or a commercial loan contract, after its expiration date.	.March 1, 1994
	- Phase out the Foreign Capital Inducement Deliberation Committee.	.March 1, 1994
	- Revise Article 15-3 of the Presidential Decree on the Tax Exemption and Reduction Control Law to eliminate the requirement that a company submit its investment program and completion report when filing for tax deductions on its investments.	.June 1993

G. Miscellaneous

·a of egulation	Deregulation Measures	Agency in Charge and Target Date for Implementation
Labor	- MOL will not enforce periodical labor inspection in 1993 in consideration of the burden imposed on business. In the end of 1993, the MOL will make overall improvements in its inspection system.	.Ministry of Labor (MOL) . March 1993
	- Concerning the Job Training Law: · raise the ceiling on training expenses for employed workers, and · abolish the regional requirement on the commissioning of implant vocational training.	· MOL · June 1993
Technology velopment	- Lift the notification requirement on private businesses' reserve funds for technology development. Handling of this notification process will be consolidated under the authority of the National Tax Administration.	· MOST · End of 1993
Tourism	- Amend the Tourism Promotion Act to: · relax requirements on the acquisition of foreign currency by travel agencies, and · abolish the recommendation system for coordinating the attraction of large international conferences and tour groups.	· MOT · End of 1993
	- Liberalize the commission fee in the travel agency service.	· MOT · August 1993
Fuel Products	- Ease price regulation on domestic petroleum. · Consider linking domestic petroleum prices to the price of imported crude oil and exchange rates, as a transition measure prior to possible price liberalization, in 1994.	· MOTIE

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Korea December, 1993: Vol. 1 [5]

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DEPARTMENT FOR EAP/K - RICHARDSON AND HEIDT

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E.O. 12356: N/A
TAGS: ETRD, EINV, ECON, KS, EFIN, EAGR
SUBJECT: SPR 0004: ECONOMIC TRENDS REPORT (FET)

1. SUMMARY: KOREA'S ECONOMY IS UNDERGOING A DIFFICULT TRANSITION PERIOD CHARACTERIZED BY GROWTH AT HISTORICALLY LOW LEVELS AND POLICY UNCERTAINTY. AFTER A DISAPPOINTING RISE OF 4.7 PERCENT IN 1992, REAL GNP IN FIRST HALF 1993 GREW BY A MEAGER 3.8 PERCENT OVER THE YEAR BEFORE. BUSINESSMEN ARE CONCERNED THAT ECONOMIC ACTIVITY IN THE SECOND HALF WILL BE WEAKENED BY THE GOVERNMENT'S "REAL NAME" DECREE OUTLAWING ALI BANK ACCOUNTS. THAT ACT, THOUGH CONDUCIVE TO LONG TERM EFFICIENCY, WILL SQUEEZE CREDIT FOR SMALL BUSINESSES UNLESS THEY CAN RAPIDLY SHIFT TO INSTITUTIONAL BORROWING. THE EMBAS PREDICTS THAT REAL GNP GROWTH IN 1993 WILL ROUGHLY MATCH LAST YEAR'S, TO BE FOLLOWED BY A MODERATE ACCELERATION TO 6.3 PERCENT IN 1994. BY CONTRAST, KOREA EXPERIENCED DOUBLE-DIGIT REAL GROWTH IN THE 1986-1991 PERIOD.

2. PRESIDENT KIM IS AIMING FOR A MILDLY STIMULATIVE ECONOMIC POLICY. STABILIZATION PROGRAMS ENACTED BY FORMER PRESIDENT R TAE WOO LOWERED KOREA'S INFLATION RATE AND NARROWED THE CURRE ACCOUNT DEFICITS BEFORE PRESIDENT KIM TOOK OFFICE IN FEBRUARY 1993, AND THE PRESIDENT RELAXED POLICY. THE GOVERNMENT INDUC INTEREST RATE CUTS, INCREASED CREDIT ALLOCATIONS, AND PROPOSED ACCELERATED INFRASTRUCTURE EXPENDITURES. THE OVERALL IMPACT PRESIDENT KIM'S PROGRAMS, HOWEVER, IS LESS CLEAR. HIS CAMPAIGNS AGAINST CORRUPTION AND BUSINESS CONCENTRATION, FOR INSTANCE, HAVE MOST PROBABLY DISCOURAGED SOME CONSUMPTION AND INVESTMENT.

2. PRESIDENT KIM'S FIVE YEAR PLAN, RELEASED IN JULY 1993, ENVISIONS A WIDESWEEPING PROGRAM OF DEREGULATION. BUT UNTIL

DETAILS ARE AVAILABLE, CONCERNS THAT MANY MARKETS WILL REMAIN REGULATED EVEN AFTER 1998 WILL PERSIST. THE U.S. GOVERNMENT, IN CLOSE CONSULTATION WITH U.S. BUSINESSES IN KOREA, WILL UTILIZE THE DIALOGUE FOR ECONOMIC COOPERATION (DEC) TO ENCOURAGE FULL IMPLEMENTATION OF PRESIDENT KIM'S VISION OF A "NEW KOREA" OF OPEN MARKETS.

3. KOREA REMAINS A DIFFICULT OPERATING ENVIRONMENT FOR U.S. COMPANIES, WHICH WITHDREW A RECORD USD 277 MILLION IN DIRECT INVESTMENT IN PROJECTS IN 1992. ARCANE AND OFTEN ARBITRARY T AND FINANCING REGULATIONS PERPLEX CORPORATE TREASURERS; AND HIGH-TECH FIRMS WORRY ABOUT PATENT AND COPYRIGHT INFRINGEMENT ALTHOUGH KOREA'S PROTECTION REGIME IS IMPROVING. U.S. EXECUTIVES COMPLAIN THAT KOREAN UNIONS MAKE SPECIAL DEMANDS O FOREIGN EMPLOYERS. PUBLIC HEALTH INSPECTORS SEEM SINGULARLY FOCUSED ON FOREIGN CONSUMABLES. NONETHELESS, MANY AMERICANS FIND THE KOREAN MARKET LUCRATIVE. THE ELECTRONICS, FINISHED AIRCRAFT AND PARTS, AND MANUFACTURING PROCESS CONTROLS SECTOR HAVE STRONG SALES POTENTIAL. PLANNED NUCLEAR POWER PLANT AND AIRPORT INFRASTRUCTURE PROJECTS WILL PLAY TO U.S. TECHNOLOGIC STRENGTHS.

CURRENT ECONOMIC SITUATION AND TRENDS
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4. ECONOMIC GROWTH: THE KOREAN ECONOMY CONTINUED TO GROW SLOWLY IN THE SECOND QUARTER OF 1993 DUE TO SLUGGISH FACILITY INVESTMENT AND WEAK CONSUMPTION, WITH BANK OF KOREA FIGURES INDICATING ONLY A 4.2 PERCENT REAL GNP RISE OVER THE YEAR BEFORE. THE FIRST HALF YEAR-OVER-YEAR GROWTH RATE OF 3.8 PERCENT IS THE LOWEST IN 12 YEARS. EXPECTATIONS BY PRIVATE FORECASTERS THAT SECOND HALF 1993 WOULD MARK A RECOVERY FROM THE ONGOING GROWTH RECESSION HAVE BEEN REPLACED BY ANXIETIES THAT THE ECONOMY MAY WEAKEN EVEN MORE. SPECIFICALLY, THE GOVERNMENT'S SURPRISE MID-AUGUST DECREE THAT USE OF PSEUDONYM TO DISGUISE ASSET OWNERSHIP BE DISCONTINUED BY OCTOBER 12, 1993, HAS UNSETTLED FINANCIAL MARKETS. ECONOMIC OFFICIALS AN BUSINESSMEN ARE CONCERNED THAT SMALL FIRMS, WHICH HAVE TRADITIONALLY RELIED ON THE INFORMAL CREDIT MARKETS SUPPLIED VIA ANONYMOUS BANK ACCOUNTS, WILL BE SQUEEZED, IMPAIRING SECOND-HALF GROWTH. TO FORESTALL THIS POSSIBILITY, THE GOVERNMENT HAS OPENED EMERGENCY CREDIT LINES AND DIRECTED THE BANK OF KOREA TO BE FLEXIBLE REGARDING MONEY SUPPLY CONTROL. NONETHELESS, SURVEYS INDICATE SPREADING INSOLVENCY PROBLEMS. THE EMBASSY ESTIMATES THAT 1993 REAL GNP GROWTH--LARGELY FOREIGN-SECTOR LED--WILL ROUGHLY MATCH THE 4.7 PERCENT GROWTH REGISTERED IN 1992. AS THE ECONOMY ADJUSTS TO PRESIDENT KIM' POLICIES AND INVESTOR CONFIDENCE RETURNS, WE EXPECT A MODERAT ACCELERATION OF GROWTH TO 6.3 PERCENT IN 1994, WITH GREATER RELIANCE ON PRIVATE DOMESTIC DEMAND FOR GROWTH. THE GOVERNME SECTOR WILL ALSO BOOST GROWTH IN 1994--PUBLIC SALARIES WILL B RAISED AND PUBLIC INVESTMENT WILL JUMP STRONGLY, MORE THAN OFFSETTING, IN OUR JUDGMENT, THE CONTRACTIONARY IMPACT OF HIGHER FUEL TAXES.

5. BALANCE OF PAYMENTS AND FOREIGN DEBT: KOREA'S CURRENT ACCOUNT DEFICIT NARROWED TO ABOUT USD 1.0 BILLION IN FIRST HA 1993 FROM USD 4.5 BILLION IN FIRST HALF 1992. THIS REMARKABL SHRINKAGE WAS DERIVED PRIMARILY FROM TRADE FLOWS, AS CAPITAL GOODS IMPORTS FELL DUE TO WEAK DOMESTIC FACILITY INVESTMENT A EXPORTS, AIDED BY THE DEPRECIATION OF THE WON AGAINST THE YEN DURING 1993, HELD UP DESPITE A MAJOR INDUSTRIAL STRIKE. KORE HAS SUCCEEDED DURING THE 1990S IN DIVERSIFYING AWAY FROM SLOW GROWTH OECD MARKETS IN FAVOR OF CHINA, ASEAN AND LATIN AMERICA. THE EMBASSY ESTIMATES THAT THE CURRENT ACCOUNT DEFICIT WILL FALL TO USD 770 MILLION IN 1993, AND COULD ACHIE

BALANCE OR A SMALL SURPLUS THE FOLLOWING YEAR.

6. THE LONG-TERM CAPITAL ACCOUNT REGISTERED NET INFLOWS OF U S.1 BILLION IN FIRST HALF 1993, UP BY USD 1.5 BILLION FROM A YEAR BEFORE. THE NET INFLOW OF FOREIGN PORTFOLIO INVESTMENT FIRST HALF 1993 AMOUNTED TO USD 4.4 BILLION, UP BY USD 2.0 BILLION FROM FIRST HALF 1992. KOREA'S GROSS FOREIGN DEBT WIL REACH AN ESTIMATED USD 45 BILLION BY THE END OF 1993, WHILE DEBT SERVICE AS A SHARE OF EXPORTS REMAINS IN THE COMFORTABLE SIX PERCENT RANGE. NET FOREIGN DEBT, TAKING INTO ACCOUNT KOREA'S APPROXIMATE USD 35 BILLION IN OVERSEAS ASSETS, WAS JU UNDER USD 10 BILLION AT THE END OF JUNE 1993. KOREA'S GOLD A FOREIGN EXCHANGE HOLDINGS HIT USD 19 BILLION AT THE END OF JU 1993, A RECORD LEVEL EQUAL TO 2.5 MONTHS IMPORT COVER.

7. ECONOMIC POLICIES: PRESIDENT KIM IS HOPING TO JUMP-START ECONOMIC GROWTH. STABILIZATION PROGRAMS ENACTED IN EARLY 199 BY EX-PRESIDENT ROH TAE WOO HAD LOWERED KOREA'S INFLATION RAT AND NARROWED THE CURRENT ACCOUNT DEFICIT BY THE TIME PRESIDEN KIM ASSUMED OFFICE IN FEBRUARY 1993. ALTHOUGH SEVERAL KEY ADVISORS URGED CONTINUED STABILIZATION, THE NEW PRESIDENT, ALARMED BY SHARP DECLINES IN INVESTMENT SPENDING, DECIDED TO

EASE POLICY. HIS "100 DAYS" PLAN LOWERED INTEREST RATES, INCREASED CREDIT LINES FOR BUSINESS, AND PROMISED ACCELERATED SPENDING ON PUBLIC INVESTMENT. PRESIDENT KIM IN LATE AUGUST PROPOSED THAT THE GOVERNMENT FINANCE A SECOND HIGH SPEED TRAI LINE BETWEEN SEOUL AND KWANGJU IN ADDITION TO THE USD 15 BILLION LINE ALREADY PLANNED BETWEEN SEOUL AND PUSAN. THE DRAFT FY1994 BUDGET ENDORSED BY THE GOVERNMENT IN LATE-SEPTEMBER 1993 PROPOSES A 13.7 PERCENT GENERAL SPENDING INCREASE OVER THE PREVIOUS YEAR, WITH LARGE EXPENDITURE INCREASES PLANNED FOR PUBLIC INVESTMENT, RESEARCH AND DEVELOPMENT, AND SMALL BUSINESS SUPPORT. REVENUE PROJECTIONS ARE MURKY BECAUSE THE GOVERNMENT IS STILL DEBATING PLANS TO EXPAND THE TAX BASE THROUGH TOUGHER ENFORCEMENT AND IDENTIFICATION, TO CUT INCOME TAX RATES FOR THE MIDDLE CLASS, AND TO HIKE EXCISE TAXES IN ORDER TO FINANCE NEW PUBLIC WORKS SOME PRIVATE ANALYSTS WORRY THAT SLOW MACROECONOMIC GROWTH AN DISAPPOINTING TAX ENFORCEMENT EFFORTS COULD UNDERMINE REVENUE FORECASTS, RESULTING IN HIGHER BORROWING IN 1994 AND BEYOND T FINANCE PROMISED EXPENDITURE.

8. ALTHOUGH PRESIDENT KIM IS EMPLOYING KOREA'S TRADITIONAL BUDGET AND CREDIT POLICIES TO PROMOTE GROWTH, HIS STRUCTURAL REFORM PROGRAMS MAY HAVE THE OPPOSITE IMPACT, AT LEAST IN THE NEAR TERM. IN ADDITION TO THE SHOCK THERAPY OF REAL NAME

ACCOUNTING, HIS ANTI-CORRUPTION CAMPAIGNS -- MANY TOP OFFICIA HAVE BEEN ARRESTED OR FORCED TO RESIGN -- AND CRITICISMS OF T ECONOMIC POWER OF THE CHAEBOL CONGLOMERATES, HAVE UNDOUBTEDLY WEAKENED FACILITY INVESTMENT AND CONSUMPTION OF GOODS PERCEIV

TO BE LUXURIES.

9. MUCH UNCERTAINTY SURROUNDS PRESIDENT KIM'S LONG RANGE ECONOMIC POLICIES. THE GOVERNMENT'S FIVE YEAR PLAN RELEASED EARLY JULY 1993 FORESEES SUSTAINED ANNUAL REAL GNP GROWTH OF SEVEN PERCENT, RAISING PER CAPITA INCOMES FROM USD 6,800 IN 1992 TO USD 14,000 BY 1998, AND PROMISES A "NEW KOREA" OF LIBERALIZED DOMESTIC AND INTERNATIONAL POLICIES. THE SPIRIT AND SCOPE OF THE PLAN ARE AMBITIOUS AND ENCOURAGING, BUT DETAILS ARE LACKING AND ITS IMPLEMENTATION SCHEDULE IS BACKLOADED TOWARD THE END OF THE PERIOD. THE LANGUAGE OF THE PLAN SUGGESTS THAT CERTAIN MARKETS, LIKE FOREIGN EXCHANGE, MAY BE SUBJECT TO REGULATION EVEN AFTER 1998. ALSO, THE BUREAUCRACY, CAN AND OFTEN DOES FRUSTRATE EFFORTS TO IMPLEMENT CHANGE. WHILE MANY OF KOREA'S LEADERS RECOGNIZE THAT REFORM ESSENTIAL FOR A NATION THAT ASPIRES TO OECD MEMBERSHIP IN THE

MID-1990S, THE MINISTRIES AND THE INDUSTRIAL AND AGRARIAN INTERESTS WHICH DERIVE POWER AND PROTECTION FROM THE OLD SYSTE WILL UNDOUBTEDLY FIGHT DEREGULATION.

10. INFLATION AND LABOR COSTS: KOREA HAS HALVED ITS INFLATIO RATE SINCE THE START OF THE DECADE, AND CONSUMER PRICES IN AUGUST 1993 ROSE ONLY 4.4 PERCENT OVER 1992 LEVELS. THE GOVERNMENT IS APPEALING TO BUSINESSES TO AVOID PRICE HIKES IN 1993 IN ORDER TO SHARE THE PAIN OF ADJUSTMENT. A COLD, WET GROWING SEASON MAY RESULT IN A JUMP IN FOOD PRICES IN THE LATTER PART OF 1993, BUT NONETHELESS WE EXPECT CONSUMER PRICE INFLATION TO REMAIN IN THE 5 PERCENT RANGE FOR THE FORESEEABL FUTURE. PRODUCER PRICES, WHICH ROSE LESS THAN 2 PERCENT IN FIRST HALF 1993 FROM YEAR-EARLIER LEVELS, SHOULD ALSO BE RELATIVELY STABLE. THE CHIEF DOWNSIDE RISK TO PRICE STABILIT

IS THAT THE BANK OF KOREA, UNDER GOVERNMENT PRESSURE TO SMOOT THE TRANSITION TO REAL NAME ACCOUNTING, COULD SUPPLY EXCESSIV LIQUIDITY IN SECOND HALF 1993, THEREBY REIGNITING INFLATION AFTER A ONE-TO TWO-YEAR LAG.

11. WAGE DEMANDS, WHICH INTENSIFIED OVER THE LAST FEW YEARS WITH THE ECLIPSE OF AUTHORITARIAN RULE, BEGAN TO MODERATE IN 1993, SUPPORTING A FORECAST OF CONTAINED INFLATION. GOVERNME INCOMES POLICY FOR 1993 CALLS FOR A FREEZE ON CIVIL SERVICE SALARIES AND PRIVATE SECTOR WAGE INCREASES OF 4.7 TO 8.9 PERCENT DEPENDING ON FIRM SIZE. IN FACT, ACCORDING TO THE KOREAN EMPLOYERS' FEDERATION, WAGE INCREASES AT THE NATION'S TOP THIRTY CONGLOMERATES AVERAGED JUST 3.71 PERCENT AT END AUGUST 1993, ABOUT ONE PERCENTAGE POINT BELOW THE GUIDELINE. AFTER THE GOVERNMENT INTERVENED ON BEHALF OF MANAGEMENT DURIN THE HYUNDAI STRIKE IN SUMMER 1993, WORKERS THERE SETTLED FOR BASIC PAY INCREASES OF ABOUT 5 PERCENT, LESS THAN HALF THEIR INITIAL DEMAND. SETTLEMENTS ARE REPORTEDLY HIGHER FOR SMALLE FIRMS AND THE CONGLOMERATES OFFER ADJUSTMENTS TO BASIC PAY, B WE EXPECT WAGES TO RISE JUST UNDER 10 PERCENT ON AVERAGE IN 1993, COMPARED TO A 15 PERCENT RISE IN 1992. WAGE MODERATION SEEMS AT LEAST PARTLY A REACTION TO GLOOMIER OUTLOOKS FOR INDUSTRIAL PRODUCTION AND UNEMPLOYMENT. AS OF SEPTEMBER 1993 HOWEVER, LABOR STRIFE PREVAILED AT SOME FOREIGN COMPANIES, PARTICULARLY U.S. BANKS, WITH WORKERS DEMANDING PROFIT SHARING AND MANAGEMENT OVERSIGHT IN ADDITION TO OUTSIZED PAY INCREASES

IMPLICATIONS FOR THE UNITED STATES
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12. BILATERAL TRADE FLOWS AND EXCHANGE RATES: THE GENERAL

SLOWDOWN IN THE KOREAN ECONOMY IS AFFECTING DEMAND FOR U.S. PRODUCTS. U.S. EXPORTS TO KOREA DECLINED IN 1992 BY USD 600 MILLION, AND WE ESTIMATE ANOTHER USD 787 MILLION DECLINE IN 1993. THE EMBASSY PROJECTS THAT IN 1994 U.S. EXPORTS TO KOREA WILL PROBABLY STAGNATE OR RISE ONLY SLIGHTLY. THE U.S. BILATERAL TRADE BALANCE WITH KOREA, BASED ON KOREAN CUSTOMS

DATA, IS ESTIMATED TO SHIFT FROM A SURPLUS OF ABOUT USD 200 MILLION IN 1992 TO A USD 700 MILLION DEFICIT IN 1993.

13. THE WON FELL GRADUALLY AGAINST THE DOLLAR IN 1993. BETWEEN JANUARY AND SEPTEMBER 1993 THE WON DEPRECIATED ABOUT 2.8 PERCENT AGAINST THE DOLLAR, CLOSING AT 811.1 WON PER DOLLA ON SEPTEMBER 21. THE REAL, EFFECTIVE DEVALUATION OF THE WON DURING THE SAME PERIOD WAS ABOUT 6 PERCENT. ON THE PLUS SIDE FOR U.S. EXPORTERS, THE SHARP APPRECIATION OF THE YEN AGAINST THE DOLLAR SHOULD HELP AMERICAN CAPITAL GOODS SUPPLIERS CHALLENGE JAPAN'S POSITION AS THE DOMINANT EQUIPMENT SUPPLIER TO KOREA.

14. THE U.S. TREASURY REPORTED TO THE U.S. CONGRESS IN MAY 1993 THAT IT FOUND NO EVIDENCE OF DIRECT EXCHANGE RATE MANIPULATION BY THE KOREAN AUTHORITIES TO GAIN COMPETITIVE ADVANTAGE. HOWEVER, THE TREASURY NOTED THAT STRINGENT FOREIG EXCHANGE AND CAPITAL CONTROLS FRUSTRATE THE EMERGENCE OF A TRUELY MARKET-DETERMINED EXCHANGE RATE.

15. FOREIGN INVESTMENT CLIMATE: KOREA HAS A COMPARATIVELY PO RECORD IN ATTRACTING FOREIGN DIRECT INVESTMENT -- NEW FDI FLO

AS A SHARE OF GNP RANK ONLY NINTH AMONG ASIAN ECONOMIES, BEHI POORER NATIONS SUCH AS MALAYSIA, INDONESIA, AND THE PHILIPPINES. THE GOVERNMENT EXPRESSES A DESIRE FOR FOREIGN CAPITAL AND TECHNOLOGY TRANSFER, BUT REGULATIONS REFLECT AN HISTORICAL FEAR OF FOREIGN DOMINATION. THE DOLLAR VALUE OF NEWLY APPROVED INVESTMENT PROJECTS IN KOREA DECLINED FROM USD 1.4 BILLION IN 1991 TO USD 900 MILLION IN 1992, AND FIRST HALF 1993 FLOWS WERE DOWN ANOTHER 7.6 PERCENT FROM THE YEAR BEFORE FDI IN THE MANUFACTURING SECTOR IS ESPECIALLY WEAK. NEW U.S. FDI IN KOREA WAS ABOUT USD 380 MILLION IN 1992, AND USD 395 MILLION (ANNUAL RATE) IN FIRST HALF 1993. MOST DISTURBINGLY FOR KOREAN ECONOMIC DEVELOPMENT, BAILOUTS BY SEVERAL U.S. MULTINATIONALS LED TO A RECORD USD 369 MILLION IN PROJECT WITHDRAWALS BY FOREIGNERS IN 1992. CHRONIC COMPLAINTS BY U.S FIRMS OPERATING IN KOREA INVOLVE RESTRICTIONS ON THEIR ABILITY TO FINANCE OVERSEAS, ARBITRARY TREATMENT BY KOREAN TAX AUTHORITIES, AND VIOLATIONS OF PATENT, TRADEMARK, AND COPYRIGH RIGHTS, ALTHOUGH IN THIS LATTER AREA THE KOREANS ARE IMPROVING THEIR LEGAL REGIME AND BEEFING UP ENFORCEMENT.

16. THE KIM ADMINISTRATION HAS PLEDGED A MORE FORWARD-LOOKING ATTITUDE TOWARD FDI. THE 1993 FOREIGN CAPITAL INDUCEMENT ACT IS DESIGNED TO EXPEDITE THE PROCESSING OF FDI APPLICATIONS AND TO REDUCE THE NUMBER OF SECTORS WHERE FDI IS RESTRICTED. BUT EVEN WHEN THE ACT IS FULLY IMPLEMENTED IN 1998, BUREAUCRATIC OBSTACLES MAY REMAIN. FOR INSTANCE, ALTHOUGH THE MINISTRY OF FINANCE CLAIMS THAT THE ACT WILL LIBERALIZE THE TRANSPORT SECTOR FOR FOREIGNERS, DOOR-TO-DOOR DELIVERIES BY FOREIGN AIR EXPRESS SERVICE FIRMS WILL REMAIN RESTRICTED DUE TO MINISTRY O TRANSPORTATION REGULATIONS THAT ESSENTIALLY DUPLICATE PREVIOUS MOF RESTRICTIONS. MOREOVER, MOF OFFICIALS HAVE CLARIFIED THAT

THE ACT DOES NOT INSTITUTE A NOTIFICATION-ONLY REQUIREMENT FOR NEW FDI -- AFFIRMATIVE APPROVAL WILL STILL BE NECESSARY.

17. FOCUS ON THE DEC: THE DIALOGUE FOR ECONOMIC COOPERATION (DEC) WAS INAUGURATED BY PRESIDENTS CLINTON AND KIM DURING THEIR JULY 1993 MEETINGS IN SEOUL. THE DEC IS A YEAR-LONG INTENSIVE EFFORT TO ADDRESS SYSTEMIC ISSUES OF DEREGULATION A ECONOMIC COOPERATION. AT THE INITIAL MEETING IN WASHINGTON I SEPTEMBER 1993, THE TWO DELEGATIONS DISCUSSED KOREAN GOVERNME INITIATIVES TO LOOSEN THE REGULATORY WEB WHICH HAMPERS FOREIG AND DOMESTIC BUSINESSES IN KOREA; BEGAN TO FORMULATE A DEC WO PROGRAM; AND AGREED TO MEET AGAIN IN SEOUL IN OCTOBER IN ORDE TO FINALIZE AND LAUNCH THAT PROGRAM. BOTH GOVERNMENTS EXPECT THAT THE DEC WILL RESULT IN AN EASING OF REGULATORY BARRIERS THE TWO ECONOMIES AND EXPANDED BUSINESS OPPORTUNITIES.

18. COMMERCIAL OPPORTUNITIES: ALTHOUGH THE MACROECONOMIC AND OVERALL REGULATORY CLIMATE FOR U.S. BUSINESS IN KOREA IS NOT FAVORABLE, SEVERAL SECTORS OFFER SUPERIOR OPPORTUNITIES. KORE

IS A MAJOR CUSTOMER OF U.S. ELECTRONICS AS WELL AS A COMPETITOR. KOREAN ASSEMBLERS OF VCRS, COMPUTERS, AND OTHER FINISHED PRODUCTS DEPEND ON U.S. INTEGRATED CIRCUITS, WAFER BOARDS, AND LARGER ELECTRONIC COMPONENTS. CONTINUED EXPORT-LE GROWTH IN KOREA'S ELECTRONIC INDUSTRY PROMISES TO BOOST COMPONENT EXPORTS FROM THE UNITED STATES BY ABOUT 11 PERCENT

ANNUALLY. KOREAN DOMESTIC DEMAND IN 1992 REACHED AN ESTIMATED USD 6 BILLION FOR SEMICONDUCTORS AND USD 7 BILLION FOR PASSIVE ELECTRONIC COMPONENTS.

19. SECOND IN PROFIT POTENTIAL ARE U.S. AIRCRAFT AND PARTS. FINISHED AIRCRAFT, BOTH MILITARY AND COMMERCIAL, HAVE TRADITIONALLY DOMINATED THIS CATEGORY, AND KOREA PLANS TO BUY 114 JET AIRCRAFT BY THE YEAR 2000. BUT COMPONENT PURCHASES WILL BECOME INCREASINGLY IMPORTANT AS KOREA BEGINS PREPARATION TO ASSEMBLE F-16 FIGHTERS FOR ITS AIR FORCE. THE GOVERNMENT HOPES TO USE THIS PROGRAM AS A SPRINGBOARD TO DEVELOP A FLEDGLING AVIATION SECTOR, AND HAS ANNOUNCED LONG-RANGE RESEARCH AND DEVELOPMENT PROJECTS THAT WILL BOOST INTEREST IN LURING U.S. INVESTORS AND TECHNOLOGY PARTNERS. U.S. AIRCRAFT AND PARTS IMPORTS REACHED ABOUT USD 1.6 BILLION IN 1992.

20. PROCESS CONTROLS ALSO MUST BE COUNTED AMONG THE AREAS OF GREATEST POTENTIAL. THE HOTTEST ITEMS WILL BE CIRCUIT TESTERS FREQUENCY MEASURING APPARATIES, AND AUTO REGULATORS.

21. ONE SERVICE SECTOR ALSO HOLDS GREAT PROMISE -- TRAVEL. THE NUMBER OF OVERSEAS TRAVELLERS HAS TRIPLED SINCE THE KOREAN GOVERNMENT LIFTED VIRTUALLY ALL RESTRICTIONS ON PASSPORT ISSUANCE. DESPITE GOVERNMENT CAMPAIGNS TO DISCOURAGE OVERSEAS TRAVEL, THE NUMBER OF OUTBOUND TOURISTS IS EXPECTED TO SURPASS 3 MILLION BY 1996. NEARLY ONE IN FOUR WILL BE HEADING FOR THE UNITED STATES.

22. A NUMBER OF MAJOR PROJECTS ARE AFOOT. WHILE KOREA'S FANTASTIC EXPORT GROWTH GRABBED THE WORLD SPOTLIGHT OVER THE LAST TWO DECADES, ITS DOMESTIC INFRASTRUCTURE REMAINED UNDERDEVELOPED. THE KOREAN GOVERNMENT IS NOW MAKING UP FOR LOST TIME, WITH THE RESULT THAT PROJECTS ARE BOOMING.

23. TWO OF THESE PROJECTS ARE IN A CLASS BY THEMSELVES -- A HIGH-SPEED RAIL LINE LINKING SEOUL AND PUSAN AND A USD 13 BILLION INTERNATIONAL AIRPORT TO BE CONSTRUCTED ON RECLAIMED SEA FLOOR OFF THE COAST OF INCHON.

24. THE HIGH-SPEED RAIL PROJECT BETWEEN SEOUL AND PUSAN IS ESTIMATED TO COST USD 15 BILLION. PRESIDENT KIM ANNOUNCED IN AUGUST 1993 PLANS FOR A SECOND LINE BETWEEN SEOUL AND KWANGJU WHICH COULD COST BETWEEN USD 1.2 BILLION AND USD 8.5 BILLION DEPENDING ON THE EXTENT OF TRACK OVERLAP WITH THE SEOUL-PUSAN LINE. KOREA HAS SELECTED EUROPEAN TECHNOLOGY FOR THE ROLLING-STOCK, BUT U.S. FIRMS SHOULD LOOK INTO COMMUNICATIONS AND SIGNALLING PRODUCTS.

25. THE USD 4.7 BILLION FIRST PHASE OF THE INTERNATIONAL AIRPORT IS SCHEDULED FOR COMPLETION BY 1997. A U.S. ARCHITECTURAL CONSORTIUM HAS ALREADY WON THE CONTRACT FOR TERMINAL DESIGN. OTHER U.S. COMPANIES SHOULD LOOK AT PEOPLE MOVER SYSTEMS, AIRPORT SECURITY, BAGGAGE HANDLING SYSTEMS, AND AIR TRAFFIC CONTROL SYSTEMS.

26. OTHER MAJOR PROJECTS OF INTEREST: USD 3 BILLION A YEAR FOR THE CONSTRUCTION OF ONE NUCLEAR AND ONE-AND-A-HALF COAL-FIRED POWER PLANTS PER YEAR TO THE YEAR 2000; USD 1.2 BILLION TO BOOST EXISTING LNG TERMINAL CAPACITY AND CONSTRUCT NATIONWIDE PIPELINES; USD 12 BILLION FOR SUBWAY CONSTRUCTION I FIVE SEPARATE CITIES; USD 20 BILLION FOR NEW EXPRESS HIGHWAY CONSTRUCTION; AND USD 10-USD 20 BILLION FOR SEAPORT EXPANSION.

27. THOSE SEEKING MORE IMMEDIATE INFORMATION ON KOREAN MAJOR PROJECTS AND PROMISING MARKET PROSPECTS SHOULD REFER TO THE

NATIONAL TRADE DATA BANK (NTDB), UPDATED MONTHLY BY THE U.S.

DEPARTMENT OF COMMERCE. INCLUDED ARE PERIODIC, EIGHT TO TEN PAGE ANALYSES OF BEST MARKET PROSPECTS FOR SPECIFIC SECTORS, A WELL AS CAPSULE SUMMARIES OF BREAKING ECONOMIC NEWS. MANY OF THESE REPORTS ARE PREPARED BY THE EMBASSY'S ECONOMIC AND COMMERCIAL SECTIONS.

28. THE U.S. EMBASSY IN SEOUL PRODUCES THE FOLLOWING REPORTS PERIODICALLY: INTELLECTUAL PROPERTY RIGHTS PROTECTION-KOREA, INVESTMENT CLIMATE STATEMENT-KOREA, AND LABOR TRENDS IN THE REPUBLIC OF KOREA.

29. THE COMMERCIAL SECTION ALSO PRODUCES THE AMERICAN BUSINES IN KOREA GUIDE AND DIRECTORY, PUBLISHED ANNUALLY BY THE ASSOCIATION OF FOREIGN TRADE AGENTS OF KOREA. OTHER REPORTS INCLUDE: COUNTRY MARKETING PLAN FOR KOREA, PUBLISHED ANNUALLY IN COOPERATION WITH THE FOREIGN COMMERCIAL SERVICE; AND OVERSEAS BUSINESS REPORTS -- MARKETING IN KOREA, PUBLISHED PERIODICALLY THROUGH THE GOVERNMENT PRINTING OFFICE (GPO).

30. AGRICULTURE: AGRICULTURE IS A SECTOR WITH SPECIAL CHALLENGES AND OPPORTUNITIES. U.S. FARM SALES TO KOREA AVERA ABOUT USD 2.5 BILLION PER YEAR -- 14 PERCENT OF TOTAL U.S. EXPORTS. UNITED STATES FARM PRODUCTS ARE GENERALLY WELL RECEIVED BY KOREAN CONSUMERS. HOWEVER, U.S. AGRICULTURAL PRODUCTS STILL FACE MANY BARRIERS IN THE KOREAN MARKET INCLUDING HIGH TARIFFS, DISTRIBUTION RESTRICTIONS, AND OUTRIGH BANS. FOR EXAMPLE, ALTHOUGH KOREA IS A RELATIVELY LARGE BUYER

OF SOYBEANS, SOYBEAN OILS ARE EXCLUDED BY DISCRIMINATORY TARIFFS. MANY FRUITS AND VEGETABLES ARE ALTOGETHER EXCLUDED FROM THE MARKET, AND ACCESS FOR BEEF AND OTHER FRUITS IS UNACCEPTABLY RESTRICTED. THE RICE MARKET REMAINS CLOSED.

31. IN 1992-1993 KOREAN HEALTH AND CHEMICAL INSPECTION PROCESSES EMERGED AS MAJOR MARKET ACCESS BARRIER. KOREAN TESTING, LABELLING, AND COUNTRY OF ORIGIN REGULATIONS TEND TO BE BURDENSOME AND NONTRANSPARENT. KOREAN TESTING METHODOLOGY IS OFTEN NOT UP TO WORLD STANDARDS. SHIPMENTS OF U.S. WHEAT, ONE OF THE MOST IMPORTANT U.S. AGRICULTURAL PRODUCTS IN THIS MARKET, HAVE BEEN HELD UP IN DISPUTES OVER KOREAN TESTS THAT SHOW HIGH LEVELS OF PESTICIDE RESIDUES. DESPITE THE INTERVENTION OF PRESIDENT CLINTON DURING HIS JULY 1993 VISIT, SEVERAL SHIPMENTS OF HIGH-QUALITY U.S. WHEAT WILL EITHER BE SOLD AS ANIMAL FEED, TURNED INTO PASTE, OR NOT SOLD AT ALL AS RESULT OF THIS DISPUTE.

32. KOREA HAS REMOVED OUTRIGHT BANS ON SOME AGRICULTURAL PRODUCTS AS PART OF ITS GATT/BALANCE OF PAYMENTS OBLIGATIONS, BUT THE GOVERNMENT NOW SEEMS INCLINED TO STOP OR AT LEAST DRAMACTICALLY SLOW THE PACE OF LIBERALIZATION. IF SEOUL DOES INDEED HONOR THE BALANCE OF PAYMENTS EXERCISE, AND COMMITS TO OTHER TRADE CONCESSIONS AS PART OF THE CONCLUSION OF THE URUQUAY ROUND, NEW OPPORTUNITIES FOR U.S. FARM SALES COULD EMERGE.

33. ACCOMPANYING TABLES ARE BEING SENT VIA DIRECT ELECTRONIC TRANSMISSION TO EAP/K AND THE KOREA DESK AT COMMERCE.

GKARTMAN///

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ORIGIN EAP-01

INFO	LOG-00	ACDA-17	AGRE-00	AID-01	AMAD-01	A-01	CEA-01
	CIAE-00	COME-00	CTME-00	C-01	OASY-00	DODE-00	DOEE-00
	EB-01	EXIM-06	E-01	FRB-03	HA-09	HHS-04	H-01
	TEDE-00	INR-00	IO-16	ITC-01	JUSE-00	LAB-04	L-03
	ADS-00	NASA-01	NSAE-00	NSCE-00	OES-09	OIC-02	OMB-01
	OPIC-08	PM-02	SIL-00	SNP-00	SP-00	STR-16	TRSE-00
	T-00	USIE-00	CORE-00	/111R			

3382
DRAFTED BY: EAP/K: WAHEIDT
APPROVED BY: EB: DKTARULLO
EB/PAS: RMORFORD
USCS: AKENT
OES/SCP: JRICHARDSON
EB/TRA/MA: SJOHNSON
DOL/ILAB: GHALM
USTR: RCASSIDY
DOC: LDROKER/DBENDER
USDA: RMACKE
TREASURY: MBRETTSCHEIDER/CCOPE
TREASURY: CCOPE
SSA: BPOWELL
------------------F9BF26 152050Z /38
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FM SECSTATE WASHDC
TO AMEMBASSY SEOUL IMMEDIATE

E.O. 12356: N/A
TAGS: ECON ETRD EAGR ELAB EFIN TSPL KS
SUBJECT: initial u.s. Responses to rokg dec workplan proposals
ref: (a) 93 state 309634, (b) 93 seoul 9816

1. This is an action message.

2. In the run-up to the october 20-21 dec plenary meeting, embassy is requested to deliver to appropriate rokg officials para 4 non-paper containing the preliminary usg response to rokg proposals for topics to be pursued under the dialogue for economic cooperation (dec). Each of these topics is included in the draft agenda outlined in para 3 of ref b. Embassy may draw on

para 3 talking points as necessary. If embassy has not already done so, please also deliver the u.s. Responses to the rokg's questions on u.s. Anti-dumping procedures contained in para 5.

3. Begin talking points:

o thank you for your ideas on topics to be pursued under the dec. We have thoroughly investigated each of your proposals. We believe that a number of them are interesting and have either accepted them or offered counterproposals on similar themes.

O as assistant secretary tarullo noted in his recent letter to assistant minister sun, we believe that

issues on which we have ongoing discussions should be referred to existing groups in order to avoid confusion.

O we hope that our initial responses will assist in your preparations for the october 20-21 plenary meeting. We are willing to discuss your proposals and our responses at the seoul meeting so that we can agree on a dec workplan by the conclusion of the meeting.

4. Begin non-paper

u.s.-korea Dialogue for economic cooperation
initial u.s. Responses to korean proposals

labor/industrial relations cooperation issues
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we understand that labor issues are sensitive and agree that labor disputes are essentially a matter to be resolved between private parties. With this in mind, we believe that a cooperative program on labor/industrial relations issues could be beneficial for both korea and the u.s. Before we reach final agreement on conducting a cooperative labor/industrial relations program under the dec, however, we request further information from korea on what activities and issues you wish to address and in what forum you believe they should be addressed.

Customs user fee

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this issue has been discussed in the gatt and the u.s. Modified the system to assess the fees. We are amenable to discussing any remaining concerns korea may have in the import clearance subgroup or in our bilateral customs-to-customs talks.

Social security
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the u.s. Social security administration (ssa) carries out an active program of negotiating bilateral totalization agreements with foreign countries. Ssa is now reviewing u.s. Bilateral social security relationships with the goal of preparing a negotiating plan for 1994-1997. The department of state has conveyed to the ssa korea's request to negotiate a social security agreement, and has recommended the inclusion of korea as a priority in the negotiating plan. We will provide an update to the korean government on this issue once ssa completes its review.

Industrial cooperation
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we agree on the importance of discussing industrial cooperation as part of the dec. Our governments should strive to recommend and develop ways to expand on the progress made over the last two years in the technology subgroup and the presidents' economic initiative. We propose that secretary brown and minister kim meet in

seattle to discuss conditions and possible components of an arrangement on industrial cooperation.

Transfer pricing
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we are amendable to discussing korea's concerns on transfer pricing issues in the plenary and in more detailed discussions we have proposed holding between the department of treasury's office of tax policy and the ministry of finance's office of tax affairs.

Section 301, anti-dumping procedures, construction surety bonds, and federal maritime commission proceedings
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while we are prepared to discuss these issues in the plenary, we should be cautious about undermining ongoing discussions in the uruguay round. On anti-dumping, we propose to set up a special meeting between the department of commerce's bureau of import administration and a rokg team to discuss specific issues raised by korea. A u.s. Maritime delegation will visit korea in november, and will also be prepared to discuss your concerns on maritime issues.

Science and technology cooperation
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we share your interest in enhancing u.s.-korea Science and technology cooperation and believe that the agreement

on science and technology cooperation provides an ideal mechanism to further these efforts. We have proposed holding the inaugural meeting of the joint committee on science and technology in seoul on november 18-19. We believe it would be appropriate for the dec to receive a joint report from this joint committee.

Standards testing procedures
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the standards group in the president's economic initiative made good progress toward increasing the transparency of korea's standards setting process. While we recognize the korean government's long term desire to discuss mutual recognition of test results in the areas of telecommunications equipment, certain food and agricultural products and manufactured products, we believe that greater uniformity in the areas of standards and testing procedures is needed prior to holding discussions of mutual acceptance of test results. In light of the korean government's desire to join the oecd, we think it particularly useful to focus these discussions on harmonization of korean standards and testing procedures with currently existing scientific standards.

We propose to ask the trade subgroup phytosanitary and food safety working group to exchange information as necessary on u.s. And korean food safety testing procedures and on how to make these procedures consistent with international practices, and report to the dec. We

also propose to ask the trade subgroup to consider formation of a standards subgroup to discuss industrial product standards and testing procedures issues that may arise.

5. Begin responses to questions on anti-dumping procedures posed by the rokg:

ql. The relevant provisions of the u.s. Laws and regulations regarding administrative reviews of antidumping orders.

A: administrative reviews of antidumping duties orders are conducted in accordance with section 751 of the tariff act of 1930, as amended (the act). (19 U.s.c. 1675). The relevant regulations pertaining specifically to ad administrative reviews are 19 c.f.r. 353.22. (Copies attached).

Q2: the usual time frame for administrative review (including when it starts, duration, etc.)

A: under section 353.22 Of the department's regulations, each year during the anniversary month of the publication of the order an interested party may request that the department conduct an administrative review. Not later than 15 days after the anniversary month, if an administrative review is requested the department will publish in the federal register a notice of

initiation. It is the policy of the department to completed all reviews within a twelve month period. However, the continued backlog from the 1980's and the large influx of steel cases recently has somewhat hampered these efforts. We do not have information on the average time between initiation and completion of reviews.

Q3. Whether it is possible to seek compensation for damages caused by the delays in administrative reviews.

A: there is no provision under the u.s. Trade law to seek compensation for damages caused by he delays in administrative reviews. We note that if a review indicates the cash deposits exceed the margin of dumping, the difference is refunded with interest.

Q4: whether the u.s. Government has any plans to address the delays in administrative reviews.

A: the department has made significant strides in reducing the backlog of administrative reviews which built up over the 1980's. Recently, due to the influx of steel cases the backlog has again been growing, but we hope to have this under control soon. The goal of the department is to eventually eliminate the backlog altogether.

Q5: whether the u.s. Government has any plans to

introduce "sunset" clauses.

A: the u.s. Has no plans, at this time, to introduce legislation to include a "sunset provision" in he law. However, the department may revoke an order with respect to a particular producer if the producer has sold the subject merchandise in the united states at not less than fair value for a period of at least three consecutive years. Also, if no interested party has requested a review for five years and no parties object, the department may revoke an order. Finally, an order can also be revoked if the international trade commission determines that no material injury or threat of material or material retardation of the establishment of an industry would result from revocation of the order

christopher