Korea Investment Agreement

O TLINE OF THE .S.-ROK INVESTMENT AGREEMENT

1) Purpose-of the Agreement

.S. investors face two major problems in Korea:

one is the imposition by Korean authorities, primarily through the informal foreign investment screening process, of various performance requirements on foreign investors;

the other is limitation on sectors in which foreign firms may establish in Korea.

The primary purpose and accomplishment of the May 19 bilateral agreement is removal of performance requirements on foreign investors in Korea. However, the agreement also provides for the opening of certain sectors to foreign investment. The nited States will continue to pursue the establishment issue as needed.

The May 19, 1989 exchange of letters on investment between STR Carla Hills and Korea's Ambassador Tong-Jin Park constitute a trade agreement between the nited States and Korea.

2) Performance Requirements

Effective July 1, 1989 the Korean Government will not formally or informally impose any performance requirements on a foreign investor as a condition of permitting a foreign investment or in exchange for tax incentives. Nine performance requirements are identified in the agreement, among them exporting, technology transfer, local content, shifting production, marketing and distribution and local equity.

The only exception to this commitment is Korea's ability to impose, on a transitional basis, a local equity participation requirement on a foreign investment falling under:

a) the "negative list" of sectors in which foreign investments are restricted or prohibited;

b) "sunset" industries in which Korean firms are prohibited in investing (Article 7.2 of the Foreign Investment Guidelines -- FIG);

c) retail and small and medium sized businesses and construction, non-life insurance and alcohol distilling U (Articles 6, 7.1 and 8 of the FIG); and

d) under existing Korean laws which require such joint ventures until these laws are amended "on an expeditious basis".

After a foreign investment is established in Korea it will receive full national treatment except in two instances:

a) national treatment can be denied based on exceptions in the .S.-Korean Treaty of Friendship and Navigation, i.e. national security, land acquisition and exploitation; and

b) even where Korea is imposing performance requirements on its own nationals,

it will under no circumstances impose on foreign investors export performance requirements or any other requirements which have the effect of discriminating against foreign investors, and

if a performance requirement is imposed on a .S. investors on a national treatment basis which impairs the investor's interests, the governments will consult, and the Korean government will eliminate the impairment within 90 days. U

The technic icen in n tific ti n y tem wi be revi ed t e imin te the f rma r inf rma uth rity t ch n e the terms f the icen in c ntr ct un e the c ntr ct vi te K re ' Antitru t nd F ir Tr de L w -- h wever the United St te inf rmed K re th t it may bject t cert in e ement f K re ' F ir Tr de L w

By the end f 1989 K re wi deve p p n f r the remov f previ u y imp ed perf rmance requirement n exi tin f rei n inve tment

3) Inve tment N tific ti n

Between 1991 nd 1993 K re wi r du y move t n inve tment n tific ti n y tem under which n inve t r mere y wi n tify the K re n vernment f hi inve tment nd wi be b e t pr ceed if the inve tment i n t di ppr ved within 60 d y

Thi pr cedure pp ie t ect r which re n t n the ne tive i t r re tricted under the FIG (i e Artic e 6, 7 r 8-- ee b ve)

The n y ec n mic re n f r the di ppr v f U S inve tment wi be vi ti n f K re ' Antitru t nd F ir Tr de L w

In the interim, effective Ju y 1, 1989, f rei n inve tment wi be ppr ved r di ppr ved within 60 d y

4) E t b i hment Liber iz ti n

K re wi n t dd ny ect r t the "ne tive i t" f the F rei n Inve tment Guide ine nd wi c ntinue iber iz ti n f the "ne tive i t" n n "expediti u b i "

By 1991 f rei n tr ve ency ervice wi be fu y pen t f rei n inve tment in K re

F rei n dverti in encie wi be b e t h ve maj rity equity p rticip ti n by 1990 nd 100 percent equity by 1991

F rei n c mp nie wi be b e t wh e e ph rmaceutic in K re effective Ju y 1, 1989 nd c metic effective Ju y 1, 1990

L c equity p rticip ti n nd c ynthe i requirement wi be e imin ted f r f rei n ph rmaceutic c mp nie by 1990

N te: Thi i n ut ine -- p e e re d the reement f r more det i nd the uth rit tive text

GE rp; 5-5-89

202/395-6813

THE AMBASSADOR EMBASSY OF THE REPUBLIC OF KOREA

TONG-JIN PARK

WASHINGTON, DC

MAY 19, 1989

The H n r b e C r A Hi

The United St te Tr de Repre ent tive

Office f the U S Tr de Repre ent tive

600 Seventeenth Street, N W ,

Wa hin t n, D C 20506 .

De r Amb d r Hi :

I have the ho o to e e to the e e t o ultatio held betwee ep e e tative o the Gove me t o the Republi o Ko ea (Ko ea Gove me t) a d the Gove me t o the U ited State o Ame i a (US Gove me t) ega di g i ve tme t i Ko ea. A a e ult o the e o ultatio the Ko ea Gove me t ha ag eed to take the ollowi g a tio :

A. Pe o ma e Requi eme t

1. E e tive July 1 1989 the Ko ea Gove me t will ot o mally o i o mally impo e pe o ma e equi eme t o a o eig i ve to a a te m o o ditio o pe mitti g a i ve tme t i it te ito y o a a o ditio o e eipt o a y i e tive.

2. O e e tabli hed all o eig i ve tme t will be a o ded atio al t eatme t ubje t to the ollowi g:

a. Ex eptio to atio al t eatme t may o ly be applied o ea o o la d a qui itio exploitatio o la d o othe e ou e o atio al e u ity.

b. Pe o ma e equi eme t will ot be applied o mally o i o mally ex ept that impo itio o a atio al t eatme t ba i o pe o ma e equi eme t i ex eptio al i umsta e a d i a ma e whi h will ot ge e ate ig i i a t di to tio to i te atio al t ade a d i ve tme t i ot a violatio o thi ag eeme t p ovided that u h equi eme t eithe have the e e t o di imi ati g agai t o eig i ve to o a e expo t equi eme t .

. I the eve t that the i te e t o a o eig i ve to a e alleged to be impai ed a a e ult o the impo itio o a pe o ma e equi eme t o a atio al t eatme t ba i the Ko ea Gove me t ag ee to o ult with the US Gove me t upo the latte ' i itiative a d to take tep to elimi ate u h impai me t withi i ety (90) day i u h impai me t exi t .

3. Notwith ta di g pa ag aph A1 a a t a itio al tep to ull o eig equity pa ti ipatio o eig i ve tme t may be ubje t olely to lo al equity pa ti ipatio equi eme t u de A ti le 5.4 o the Guideli e o Fo eig I ve tme t the i ve, tme t pe mi io equi eme t i A ti le 6 7 a d 8 o aid Guideli e a d u de exi ti g i dividual law s ubje t to the ollowi g:

a. Impleme tatio o ame dme t o the Guideli e o Fo eig I ve tme t will be i u h a ma e a to e ou age athe tha e t i t o eig i ve tme t.

b.,The Ko ea Gove me t will limit appli atio o A ti le 7.1 to the a ea o bu i e ove ed a o the date o thi lette .

. The Ko ea Gove me t will limit the appli atio o A ti le 7.2 o the Guideli e o Fo eig I ve tme t whi h impo e lo al equity equi eme t to u et i du t ie o whi h the Ko ea Gove me t ba i ve tme t by dome ti i ms a d will apply u h p ovi io o ly i ex eptio al i umsta e . The Ko ea Gove me t will e u e that mea u e take u de thi a ti le a e ot the o ly a tio take to atio alize eleva t e to .

d. The Ko ea Gove me t o i ms the ollowi g time table o emoval o the ollowi g e to om atio alizatio :

Automobile July 31 1989

E gi e o Ship July 31 1989

Sili o ma ga e e e o-alloy July 31 1989

Fe tilize Novembe 30 1990

The Ko ea Gove me t will edu e ub ta tially the umbe o emai i g e to li ted i A ti le 7.2 by De embe 31 1989.

e. (i) A o the date o thi lette o ly the ollowi g i dividual law s have bee ide ti ied a o tai i g lo al equity pa ti ipatio equi eme t o o eig i ve tme t: , Petroleum e g Law

M i g Law

F sher es Law

Pho ogram a d V deotape Ma u actur g Law

( ) The Korea Gover me t w ll de t a d make publ c b Ju e 30, 1989, a other laws co ta g or perm tt g local equ t part c pat o requ reme ts or ore g vestme t.

. The Korea Gover me t w ll take appropr ate steps to phase out all local equ t part c pat o requ reme ts d v dual laws o a exped t ous bas s, except or local equ t part c pat o requ reme ts mposed or reaso s o la d acqu s t o , explo tat o o la d or other resources, or at o al secur t .

g ( ) The Korea Gover me t w ll e sure that appl cat o o Art cle 6 o the Gu del es or Fore g I vestme t s co s ste t w th ts pol c o l beral zat o o ore g vestme t.

( ) The Korea Gover me t w ll e sure that the co d t o s o ore g vestme t sectors re erred to Art cle 8 o the Gu del es or Fore g I vestme t w ll be o less avorable tha those st pulated the Gu del es or Fore g I vestme t o Ja uar 1989.

( )B December 31, 1989, the Korea Gover me t w ll repeal Art cle 5.2 o the Gu del es or Fore g I vestme t.

(v) The Korea Gover me t co rmed that b September 30, 1989, t w ll el mi ate the requ reme t to submit a tech olog tra s er pla as part o the appl cat o or a "h gh tech" dustr tax exempt o . The Korea Gover me t also co rmed that the export dustr tax exempt o has bee el mi ated.

4. Per orma ce requ reme ts are requ reme ts to:

a. export goods or serv ces;

b. subst tute goods or serv ces rom Korea or mported goods or serv ces or accord pre ere ce to goods or serv ces produced Korea;

c. use local co te ts;

d. accept or ach eve a g ve level or perce tage o local equ t ;

e. tra s er or l ce se, tech olog ;

. restr ct remitta ces related to vestme t;

g. l mit ma u actur g to prescr bed product l es;

h. ma u acture Korea; or

. sh t product o , d str but o or market g ac l t es or tech ques to Korea at o als through gover me t- mposed measures.

B. L beral zat o Measures

1. The Korea Gover me t w ll add o sectors to the egat ve l st, or w ll t move sectors rom the restr cted l st to the proh b ted l st. Moreover, urther l beral zat o o the egat ve l st w ll co t ue o a exped t ous bas s.

2. Sectors removed rom the egat ve l st or o lo ger subject to Art cles 6, 7, a d 8 o the Gu del es or Fore g I vestme t or d v dual laws will ot be subject to mpos t o o per orma ce requ reme ts o ew vestme t appl cat o s subject to the terms o paragraph A1.

3. B December 31, 1989, the Korea Gover me t w ll develop a a r a d equ table pla or the exped t ous removal o prev ousl mposed per orma ce requ reme ts order to promote l beral zat o o vestme t a d so y

as not to disad anta istin irms with r sp ct to th ir ability to comp t in th Kor an mark t. Such plans also will b d lop d or subs qu ntly lib raliz d s ctors.

C. Time rame or Appro al o In stment Applications

E cti July 1, 1989, th Kor an Go rnment will appro or disappro all or i n in stment applications within si ty (60) days. I th Fin stor's application is not compl t , th Kor an Go rnment will in orm th in stor as soon as possibl about additional in ormation n d d. I th 60-day p riod is not su ici nt or th appro al o th application b caus o th n d or t chnical data (. ., analysis o th n ironmental impact) or b caus th applicant is s kin ' ta mptions in conn ction with his in stment, th applicant will b in ormed within th 60-day p riod o th r asons or th d lay in appro al/disappro al and o th additional l n th o time which will b n d d or a r spons .

D. Establishment Proc dur s

1. E cti January 1, 1990, th Bank o Kor a will appro all or i n in stments in th manu acturin s ctor (r ardl ss o alu) not on th n ati list or not s kin ta inc nti s c pt thos with i ty (50) p rc nt or mor or i n quity. E cti January 1, 1991, th s in stments and thos with i ty (50) p rc nt or i n quity will no lon r b subj ct to Bank o Kor a appro al and will b come subj ct to noti ication proc dur s as d scrib d in para raph D3.

2. Th Kor an Go rnment will d lop and impl ment urth r pro r ssi or i n in stment lib ralization st ps or both manu acturin and s r ic s durin 1991 and 1992, includin pandin th a ailability o th noti ication syst m and th Bank o Kor a appro al syst m.

3. E cti January 1, 1993, a or i n in stor will b allowed to proc d with in stments in both manu acturin and s r ic s ctors that ar not on th n ati list or ar not r rr d to in para raph A3 within si ty (60) days o noti ication to th Kor an Go rnment unl ss th in stment is disappro d or on o th r asons sp ci i d in para raph D4.

4. R asons or Disappro al

a. prot ction o national s curity;

b. th maint nanc o public ord r or prot ction o public h alth, morality or sa ty;

c. th ul illment o obli ations r latin to int rnational p ac and s curity;

d. in stment which will r sult in monopolistic or pr datory practic s in th domestic mark t; or

. iolation o th Antitrust and air Trad Law.

5. By January 1, 1991, th Kor an Go rnment will r mo industry classi ication numb r 71912, tra l a ncy s r ic s, rom th n ati list, so that ull or i n participation (i. ., on hundr d (100) p rc nt or i n quity) will b p rmitt d. or i n tra l a nci s will b accord d tr atment no l ss a orabl than that accord d dom stic tra l a nci s with r sp ct to all asp cts o th ir op ration.

6. Th Kor an Go rnment will d lop, by th nd o 1989, a plan or impro ment o th istin t chnical lic nsin noti ication syst m so that it will not includ th authority (ormal or in ormal) or th r l ant ministry or commission to r qu st chan s in th t rms o t chnical lic nsin a r ments b tw e n pri at parti s, c pt wh r n c ssary to liminat iolations o th Antitrust and air Trad Law.

7. Ad rtisin

a. E cti January 1, 1990, th Kor an Go rnment will p rmit majority or i n quity participation (i. ., up to nin ty-nin (99) p rc nt or i n quity) in th ad rtisin a ncy busin ss. E cti January 1, 1991, th Kor an Go rnment will not r quir any local quity participation in or i n in stments in th ad rtisin a ncy busin ss (i. ., subsidiari s and all oth r orms o stablishment will b p rmitt d). E cti January 1, 1991, th F advertisi a e busi ess will be removed from the forei i vestme t " e ative I ist, a d i vestme t therei will be overed b the otifi atio s stem b Ja uar 1, 1993.

b. Firms i the advertisi a e busi ess whi h are partiall or full forei owned will be a orded treatme t i all aspe ts of their operatio , a d i parti ular, i this deali s with the Korea Broad ast Corporatio (KOBACO) or a omparable su essor, o less favorable tha that a orded a Korea or other o Korea advertisi firm.

The Korea Gover me t will e sure that KOBACO or a omparable su essor will operate u der tra spare t pro edures.

8. Pharma euti als

a. B Jul 1, 1989, the Korea Gover me t will permit full forei parti ipatio (i.e., subsidiaries a d all other forms of establishme t will be permitted) i i vestme ts i the busi ess of wholesali pharma euti al produ ts.

b. B Ja uar 1, 1990, the Korea Gover me t will remove i dustr lassifi atio umber 35224, i "ma ufa ture of medi ame ts," from the e ative list so that forei pharma euti al ompa ies desiri to i vest i Korea will o lo er be subje t to requireme ts for lo al s thesis of produ ts or lo al equit parti ipatio (i.e., subsidiaries a d all other forms of establishme t will be permitted) -

. B Jul 1, 1990, the Korea Gover me t will permit full forei parti ipatio (i.e., subsidiaries a d all other forms of establishme t will be permitted) i i vestme ts i the busi ess of wholesali osmeti s a d toiletries.

E. Ge eral Provisio s

1. O e established, all forei i vestme ts will be a orded atio al treatme t subje t to the terms of this letter.

2. Nothi i this letter dero ates from the ri hts of either Part u der bilateral a reeme ts or multilateral a reeme ts to whi h both Parties adhere. Both Parties reserve their ri hts u der the Ge eral A reeme t o Tariffs a d Trade.

3. Both Parties a ree that the ter s a d o ditio s of this letter are to remai u impaired b restri tio s or requireme ts dire tl or i dire tl affe ti forei i vestme t.

4. Nothi i this letter prejudi es the positio s either Part ma take i the Uru ua Rou d of Multilateral Trade Ne otiatio s.

5. Both Parties a ree to o sult at the request of either Part o er i - a matter relati to this letter.

This letter refle ts our mutual u dersta di of the a tio s that the Korea Gover me t has a reed to take with respe t to i vestme t i Korea.

Si erel ,

[si ature]

To Ji Park

Ambassdor"

THE UNITED STATES TRADE REPRESENTATIVE

Exe utive Offi e of the Preside t

Washi to . D.C. 20508

Ma 19, 1989

The Ho orable To Ji Park

Ambassador -

Embassy o public o Kor a W.

2370 Massac us s Av nu , N.

s ing on, D.C. 20008

D ear Ambassador Park:

I av onor o acknowl dg r c ip o your l r da d May 19, 1989, conc rning ac ions Kor an Gov rnmen as agr d o ak conc rning inv s men in Kor a. Your l r r ads as ollows:

"D ear Ambassador Hills:

I av onor o r r o r c n consul a ions ld

b w n r pr s n a iv s o Gov rnmen o public o

Kor a (Kor an Gov rnmen) and Gov rnmen o Uni d S a s o America (U.S. Gov rnmen) r garding inv s men in Kor a. As a r sul o s consul a ions, Kor an Gov rnmen as agr d o ak ollowing ac ions:

A. P r ormanc quir men s

1. E c iv July 1, 1989, Kor an Gov rnmen will no ormally or in ormally impos p r ormanc r quir men s on a or ign inv s or as a rm or condi ion o p rmi ing an inv s men in i s rri ory, or as a condi ion or r c ip o any inc n iv .

2. Onc s ablis d, all or ign inv s men will b accord d na ional r a men subj c o ollowing:

a. Exc p ions o na ional r a men may only b appli d or r asons o land acquisi ion, xploi a ion o land or o r r sourc s, or na ional s curi y.

b. P r ormanc r quir men s will no b appli d ormally or in ormally xc p a imposi ion on a na ional r a men basis o p r ormanc r quir men s in xc p ional circums anc s and in a mann r w hic will no g n ra signi ican dis or ions o in rna ional rad and inv s men is no a viola ion o is agr men , provid d a suc r quir men s n i r av c o discrimina ing agains or ign inv s ors nor ar xpor r quir men s.

c. In v n a in r s s o a or ign inv s or ar all g d o b impair d as a r sul o imposi ion o a p r ormanc 'r quir men on a na ional r a men basis, Kor an Gov rnmen agr s o consul wi U.S. Gov rnmen upon la r's ini ia iv and o ak s ps o limina suc impairmen wi in nin y (90) days, i suc impairmen xis s.

3. No wi s anding paragrap A1, as a ransi ional s p o ull or ign qui y par icipa ion, or ign inv s men may b subj c sol ly o local qui y par icipa ion r quir men s, und r Ar icl s 5.4 o Guid lin s or For ign Inv s men , inv s men p mission r quir men in Ar icl s 6, 7, and 8 o said Guid lin s and und r xis ing individual laws, subj c o ollowing:

a. Impl men a ion or amendmen o Guid lin s or For ign Inv s men will b in suc a mann r as o ncourag ra r an r s ric or ign inv s men .

b.W Kor an Gov rnmen will limi applica ion o Ar icl 7.1 o ar as o busin ss cov r d as o da o is l r.

c. T Kor an Gov rnmen will limi applica ion o Ar icl 7.2 o Guid lin s or For ign Inv s men , w hic impos s local qui y r quir men s, o suns indus ri s or w hic Kor an Gov rnmen bans inv s men by domes ic irms and will apply suc provisions only in xc p ional circums anc s. T Kor an Gov rnmen will nsur a measur s ak n und r is Ar icl ar no only ac ions ak n o ra ionaliz r l van s c ors.

d. T Kor an Gov rnmen con irms ollowing ime abl or r moval o ollowing s c ors rom ra ionaliza ion: W

Automobil   ul   31, 1989

Engin   for Ship   ul   31, 1989

Silicon mangan   f rro-allo   ul   31, 1989

F rtiliz r   ov mb r 30, 1990

Th   Kor an Gov rnment will r duc   ub tantiall   th   numb r of r maining   ctor   li t d in Articl   7.2 b D ec mb r 31, 1989.

. (i) A   of th   dat   of thi l tt r, onl   th   following individual law s hav   b   n id ntifi d a   containing local   quit participation r quir ment   for for ign inv   tment:

(ii) P trol um R fining

Law Mining Law

Fi h ri   Law

Phonogram and Vid otap

Manufacturing Law

(ii) Th   Kor an Gov rnment will id ntif   and mak   public b   un   30, 1989, an   oth r law s containing or p rmitting local   quit   participation r quir ment   for for ign inv   tment.

f. Th   Kor an Gov rnment will tak   appropriat   t p   to pha   out all local   quit   participation r quir ment   in individual law s on an   xp ditiou   ba i ,   xc pt for local   quit   participation r quir ment   impo   d for r a on   of land acqui ition,   xploitation of land or oth r r   ourc   , or national   curit .

g (i) Th   Kor an Gov rnment will   n ur   that application of Articl   6 of th   Guid lin   for For ign Inv   tment i

con i t nt with it   polic   of lib ralization of for ign inv   tment.

(ii) Th   Kor an Gov rnment will   n ur   that th   condition   of for ign inv   tment in   ctor   r f rr d to in Articl   8 of th   Guid lin   for For ign Inv   tment will b   no l   favorabl   than tho   tipulat d in th   Guid lin   for For ign Inv   tment of 3anuar   1989.

(iii) B   D ec mb r 31, 1989, th   Kor an Gov rnment will r p al Articl   5.2 of th   Guid lin   for For ign Inv   tment.

(iv) Th   Kor an Gov rnment confirmed that b   S pt mb r 30, 1989, it will   liminat   th   r quir ment to   ubmit a t chnolog   tran f r plan a   part of th   application for a "high t ch" indu tr   tax   x mption. Th   Kor an Gov rnment al o confirmed that th   xport indu tr   tax   x mption ha   b   n   liminat d.

4. P rformanc   r quir ment   ar   r quir ment   to:

a.   xport good   or   rvic   ;

b.   ub titut   good   or   rvic   from Kor a for import d good   or   rvic   or accord pr f r nc   to good   or rvic   produc d in Kor a;

c. u   local cont nt ;

d. acc pt or achi v   a giv n l v l or p rc ntag   of local   quit ;

. tran f r or lic n   t chnolog ;

f. r   trict r mittanc   r lat d to inv   tment;

g. limit manufacturing to pr   crib d product lin   ;

h. manufactur   in Kor a; or N

i. shift p ti n, ist ib ti n ma keting fa ilities te hniq es t K ean nati nals th gh g ve nment-imp se meas es.

B. Libe alizati n Meas es

1. he K ean G ove nment will a n se t s t the negative list, n will it move se t s f m the est i te list t the p hibite list. M o e ve , f the libe alizati n f the negative list will ntin e n an expe iti s basis.

2. Se t s emove f m the negative list n l nge s bje t t A ti les 6, 7. an 6 f the G ui elines f F eign Investment in ivi al laws will n t be s bje t t imp siti n f pe f man e eq i ements n new investment appli ati ns s bje t t the te ms f pa ag aph A1.

3. By De embe 31, 1989, the K ean G ove nment will evel p a fai an eq itable plan f the expe iti s em val f p evi sly imp se pe f man e eq i ements in e t p mote libe alizati n f investment an s as n t t isa vantage existing fi ms with espe t t thei ability t mpete in the K ean ma ket. S h plans als will be evel pe f s bseq ently libe alize se t s.

C. ime F ame F App val f Investment Appli ati ns

Effe tive J ly 1, 1989, the K ean G ove nment will app ve isapp ve all f eign investment appli ati ns within sixty (60) ays. If the invest 's appli ati n is n t mplete, the K ean G ove nment will inf m the invest as s n as p ssible ab t a iti nal inf mati n nee e . If the 60- ay pe i is n t s ffi ient f the app val f the appli ati n be a se f the nee f te hni al ata (e.g., analysis f envi nmental impa t) be a se the appli ant is seeking tax exempti ns in nne ti n with his investment, the appli ant will be inf me within the 60- ay pe i f the eas ns f the elay in app val/ isapp val an f the a iti nal length f time whi h will be nee e f a esp nse.

D. Establishment P e es

1. Effe tive Jan a y 1, 1990, the Bank f K ea will app ve all f eign investments in the man fa t ing se t (ega less f val e) n t n the negative list n t seeking tax in entives ex ept th se with fifty (50) pe ent mo e f eign eq ity. Effe tive Jan a y 1, 1991, these investments an th se with fifty (50) pe ent f eign eq ity will n l nge be s bje t t Bank f K ea app val an will be me s bje t t n tifi ati n p e es as es ibe in pa ag aph D3.

2. he K ean G ove nment will evel p an implement f the p g essive f eign investment libe alizati n steps f b th man fa t ing an se vi es ing 1991 an 1992, in l ing expan ing the availability f the n tifi ati n system an the Bank f K ea app val system.

3. Effe tive Jan a y 1, 1993, a f eign invest will be all we t p ee with investments in b th man fa t ing an se vi e se t s that a e n t n the negative list a e n t efe e t in pa ag aph A3 within sixty (60) ays f n tifi ati n t the K ean G ove nment nless the investment is isapp ve f ne f the eas ns spe ifie in pa ag aph D4.

4. Reas ns f Disapp val

a. p te ti n f nati nal se ity;

b. the maintenan e f p bli e p te ti n f p bli health, mo ality safety;

. the f lfillment f bligati ns elating t inte nati nal pea e an se ity;

. investment whi h will es lt in mon p listi p e at y p a ti es in the mesti ma ket;

e. vi lati n f the Antit st an Fai a e Law.

5. By Jan a y 1, 1991, the K ean G ove nment will emove in st y lassifi ati n n mbe 71912, t avel agen y se vi es, f m the negative list, s that f ll f eign pa ti ipati n (i.e., ne h n e (100) pe ent f eign eq ity) will be pe mitte . F eign t avel agen ies will be a e t eatment n less fav able than that a e T mesti t avel agen ies with espe t t all aspe ts f thei pe ati n.

6. The Ko e e me t will de elop, by the e d of 1989, pl fo imp o eme t of the existi tech ic l lice si g otific tio system so th t it will ot i cl de the tho ity (fo mal o i fo mal) fo the ele t Mi ist y o Commissio to eq est ch ges i the te ms of tech ic l lice si g g eeme ts betwee p i te p ties except whe e ecess y to elimi te iol tio s of the A tit st d F i T de L w.

7. Ad e tisi g

. Effecti e J y 1, 1990, the Ko e e me t will pe mit majo ity fo eig eq ity p ticip tio (i.e., p to i ety- i e (99) pe ce t fo eig eq ity) i the d e tisi g ge cy b si ess. Effecti e J y 1, 1991, the Ko e e me t will ot eq i e y loc l eq ity p ticip tio i fo eig i estme ts i the d e tisi g ge cy b si ess (i.e., s bsidi ies d ll othe fo ms of est blishme t will be pe mitted). Effecti e J y 1, 1991, the d e tisi g ge cy b si ess will be emo ed f om the fo eig i estme t " eg ti e list," d i estme t the ei will be co e ed by the otific tio system by J y 1, 1993.

b. Fi ms i the d e tisi g ge cy b si ess which e p ti lly o f lly fo eig -owned will be cco ded t e tme t i ll- spects of thei ope tio , d i p tic l , i thei de li gs with the Ko e B o dc st Co po tio (KOBACO) o y comp ble s ccesso , o less f o ble th th t cco ded y Ko e o othe o -Ko e d e tisi g fi ms.

c. The Ko e e me t will e s e th t KOBACO o y comp ble s ccesso will ope te de t sp e t p oced es.

8. Ph mace tic ls

. By J ly 1, 1989, the Ko e e me t will pe mit f ll fo eig p ticip tio (i.e., s bsidi ies d ll othe fo ms of est blishme t will be pe mitted) i i estme ts i the b si ess of wholes li g ph mace tic l p od cts.

b. By J y 1, 1990, the Ko e e me t will emo e i d st y cl ssific tio mbe 35224, "ma f ct e of medic me ts," f om the eg ti e list so th t fo eig ph mace tic l comp ies desi i g to i est i Ko e will o lo ge be s bject to eq i eme ts fo loc l sy thesis of p od cts o loc l eq ity p ticip tio (i.e., s bsidi ies d ll othe fo ms of est blishme t will be pe mitted).

c. By J ly 1, 1990, the Ko e e me t will pe mit f ll fo eig p ticip tio (i.e., s bsidi ies d ll othe fo ms of est blishme t will be pe mitted) i i estme ts i the b si ess of wholes li g cosmetics d toilet ies.

E. e e l P o isio s

1. O ce est blished, ll fo eig i estme ts will be cco ded tio l t e tme t s bject to the te ms of this lette .

2. Nothi g i this lette de og tes f om the ights of eithe P ty de bil te l g eeme ts o m ltil te l g eeme ts to which both P ties dhe e. Both P ties ese e thei ights de the e l Ag eeme t o T iffs d T de.

3. Both P ties g ee th t the te ms d co dtio s of this lette e to emai imp i ed by est ictio s o eq i eme ts di ectly o i di ectly ffecti g fo eig i estme t.

4. Nothi g i this lette p ej dices the positio s eithe P ty may t ke i the U g y Ro d of M ltil te l T de Negoti tio s.

5. Both P ties g ee to co s lt t the eq est of eithe P ty co ce i g y matte el ti g to this lette .

This lette eflects o m t l de st di g of the ctio s th t the Ko e e me t h s g eed to t ke with espect to i estme t i Ko e .

Si ce ely,

To g-Ji P k

Amb ss do " u

I am please firm ha his ex ha ge f le ers is a mu ual u ers a i g be wee ur w o g ver me s er i g he a i s ha he K rea g ver me has agree ake wi h respe i ves me i K rea.

Si erely,

[sig a ure]

arla A. Hills

THE UNTED STATES TRADE REPRESENTATNE

Exe u ive Offi e f he Presi e

Washi g , D. . 20506

May 19, 1989

The H o rable T g-Ji Park

Ambassa r

Embassy f he Republi f K rea

2370 Massa huse s Ave ue, N.W.

Washi g , D. . 20008

Dear Ambassa r Park:

I have he h r a k wle ge re eip f y ur le er a e May 19, 1989, er i g he a i s he K rea G over me has agree ake er i g i ves me i K rea. Y ur le er rea s as f ll ws:

"Dear Ambassa r Hills:

I have he h r refer he re e sul a i s hel be wee represe a ives f he G over me f he Republi f K rea (K rea G over me) a he G over me f he U i e S a es f Ameri a (U.S. G over me) regar i g i ves me i K rea. As a resul f hese sul a i s, he K rea G over me has agree ake he f ll wi g a i s:

A. Perf rma e Requireme s

1. Effe ive July 1, 1989, he K rea G over me will f rmally r i f rmally imp se perf rma e requireme s a f reig i ves r as a erm r i i f permi i g a i ves me i i s erri ry, r as a i i f r re eip f a y i e ive.

2. O e es ablishe , all f reig i ves me will be a r e a i al rea me subje he f ll wi g:

a. Ex ep i s a i al rea me may ly be applie f r reas s f la a quisi i , expl i a i f la r her res ur es, r a i al se uri y.

b. Perf rma e requireme s will be applie f rmally r i f rmally ex ep ha imp si i a a i al rea me basis f perf rma e requireme s i ex ep i al ir ums a es a i a ma er whi h will ge era e sig ifi a is r i s i er a i al ra e a i ves me is a vi la i f his agreeme , pr vi e ha su h requireme s ei her have he effe f is rimi a i g agai s f reig i ves rs r are exp r requireme s.

. I he eve ha he i eres s f a f reig i ves r are allege be impaire as a resul f he imp si i f a perf rma e requireme a a i al rea me basis, he K rea G over me agrees sul wi h he U.S. G over me up he la er's i i ia ive a ake s eps elimi a e su h impairme wi hi i e y (90) ays, if su h impairme exis s. C

3. Notwit t i g p r gr p A1, tr itio l tep to full foreig equity p rticip tio , foreig i ve tme t may be ubject olely to loc l equity p rticip tio requireme t , u er Article 5. of t e Gui eli e for Foreig I ve tme t, t e i ve4tme t pemi io requireme t i Article 6, 7, 8 of i Gui eli e u er exi ti g i ivi u l l w s, ubject to t e followi g:

. Impleme t tio or me me t of t e Gui eli e for Foreig I ve tme t will be i uc ma er to e cour ge r t er t re trict foreig i ve tme t.

b. T e Ko4re Gover me t will limit pplic tio of Article 7.1 to t e re of bu i e covere of t e te of t i letter.

c. T e Kore Gover me t will limit t e pplic tio of Article 7.2 of t e Gui eli e for Foreig I ve tme t, w hic impo e loc l equity requireme t , to u et i u trie for w hic t e Kore Gover me t b i ve tme t by ome tic firms will pply uc provi io o ly i exceptio l circumst ce . T e Kore Gover me t will e ure t t me ure t ke u er t i Article re ot t e o ly ctio t ke to r tio lize relev t ector .

. T e Kore Gover me t co firms t e followi g timet ble for remov l of t e followi g ector from r tio liz tio :

Automobile July 31, 1989

E gi e for S ip July 31, 1989

Silico ma g e e ferro- lloy July 31, 1989

Fertilizer November 30, 1990

T e Kore Gover me t will re uce ub t ti lly t e umber of remai i g ector li te i Article 7.2 by December 31, 1989.

e. (i) A of t e te of t i letter, o ly t e followi g i ivi u l l w s ve bee i e tifie co t i i g loc l equity p rticip tio requireme t for foreig i ve tme t:

(ii) Petroleum Refi i g L w

Mi i g L w

Fi erie L w

P o ogr m Vi eot pe M a uf cturi g L w

(ii) T e Kore Gover me t will i e tify make public by Ju e 30, 1989, y ot er l w s co t i i g or permitti g loc l equity p rticip tio requireme t for foreig i ve tme t.

f. T e Kore Gover me t will t ke ppropri te tep to p e out ll loc l equity p rticip tio requireme t i i ivi u l l w s o expe itiou b i , except for loc l equity p rticip tio requireme t impo e for re o of l cqui itio , exploit tio of l or ot er re ource , or tio l ecurity.

g (i) T e Kore Gover me t will e ure t t pplic tio of Article 6 of t e Gui eli e for Foreig I ve tme t i co i te t wit it policy of liber liz tio of foreig i ve tme t.

(ii) T e Kore Gover me t will e ure t t t e co itio of foreig i ve tme t i ector referre to i Article 8 of t e Gui eli e for Foreig I ve tme t will be o le f vor ble t t o e tipul te i t e Gui eli e for Foreig I ve tme t of J u ry 1989.

(iii) By December 31, 1989, t e Kore Gover me t will repe l Article 5.2 of t e Gui eli e for Foreig I ve tme t.

(iv) T e Kore Gover me t co firme t t by September 30, 1989, it will elimi te t e requireme t to ubmit tec ology tr fer pl p rt of t e pplic tio for " ig tec " i u try t x exemptio . T e Kore Gover me t l o co firme t t t e export i u try t x exemptio bee elimi te . 4

4. Perfor e re uireme ts re re uireme ts to:

. export goods or servi es;

b. substitute goods or servi es from Kore for imported goods or servi es or ord prefere e to goods or servi es produ ed i Kore ;

. use lo l o te ts;

d. ept or hieve give level or per e t ge of lo l e uity;

e. tr sfer or li e se te h ology;

f. restri t remitt es rel ted to i vestme t;

g. limit uf turi g to pres ribed produ t li es;

h. uf ture i Kore ; or

i. shift produ tio , distributio or rketi g f ilities or te h i ues to Kore tio ls through gover me t i osed me sures.

B. Liber liz tio Me sures

1. The Kore Gover me t will dd o se tors to the eg tive list, or will it move se tors from the restri ted list to the prohibited list. Moreover, further liber liz tio of the eg tive list will o ti ue o expeditious b sis.

2. Se tors removed from the eg tive list or o lo ger subje t to Arti les 6, 7. d 6 of the Guideli es for Foreig I vestme t or i dividu l l ws will ot be subje t to impositio of perfor e re uireme ts o ew i vestme t ppli tio s subje t to the terms of p r gr ph A1.

3. By De e er 31, 1989, the Kore Gover me t will develop f ir d e uit ble pl for the expeditious re ov l of previously i osed perfor e re uireme ts i order to pro te liber liz tio of i vestme t d so s ot to dis dv t ge existi g firms with respe t to their bility to o ete i the Kore rket. Su h pl s lso will be developed for subse ue tly liber lized se tors.

C. Time Fr me For Approv l of I vestme t Appli tio s

Effe tive July 1, 1989, the Kore Gover t will pprove or dis pprove ll foreig i vest t ppli tio s withi sixty (60) d ys. If the i vestor's ppli tio is ot omplete, the Kore Gover t will i form the i vestor s soo s possible bout dditio l i for tio eeded. If the 60 d y period is ot suffi ie t for the pprov l of the ppli tio be use of the eed for te h i l d t (e.g., lysis of e viro t l imp t) or be use the ppli t is seeki g t x exemp tio s i o e tio with his i vestme t, the ppli t will be i formed withi the 60 d y period of the re so s for the del y i pprov l/dis pprov l d of the dditio l le gth of time whi h will be eeded for respo se.

D. Est blishme t Pro edures

1. Effe tive J u ry 1, 1990, the B k of Kore will pprove ll foreig i vestme ts i the uf turi g se tor (reg rdless of v lue) ot o the eg tive list or ot seeki g t x i e tives ex ept those with fifty (50) per e t or re foreig e uity. Effe tive J u ry 1, 1991, these i vest ts d those with fifty (50) per e t foreig e uity will o lo ger be subje t to B k of Kore pprov l d will be o subje t to otifi tio pro edures s des ribed i p r gr ph D3.

2. The Kore Gover me t will develop d impleme t further progressive foreig i vestme t liber liz tio steps for both uf turi g d servi es duri g 1991 d 1992, i ludi g exp di g the v il bility of the otifi tio system d the B k of Kore pprov l system.

3. Effe tive J u ry 1, 1993, foreig i vestor will be llowed to pro eed with i vest ts i both uf turi g - d servi e se tors th t re ot o the eg tive list or re ot referred to i p r gr ph A3 withi sixty (60) d ys

of notification to t o an v nment unl ss t inv stment is disapp ov d fo on of t asons sp cifi d in pa ag ap D4. o

4. R asons fo Disapp oval

a. p ot ction of national s cu ity;

b. t maint nanc of public o d o p ot ction of public alt , mo ality o saf ty;

c. t fulfillment of obligations lating to int national p ac and s cu ity;

d. inv stment w hic will sult in monopolistic o p dato y p actic s in t domestic ma k t; o

. violation of t ntit ust and Fai T ad Law.

5. By Janua y 1, 1991, t o an v nment will mov indust y classification numb 71912, t av l ag ncy s vic s, f om t n gativ list, so t o at full fo ign pa ticipation (i. ., on und d (100) p c nt fo ign quity) will b p mitt d. Fo ign t av l ag nci s will b acco d d t atment no l ss favo abl t an t at acco d d dom stic t av l ag nci s wit sp ct to all asp cts of t i op ation.

6. T o an v nment will d v lop, by t nd of 1989, a plan fo imp ov ment of t xisting t c nical lic nsing notifi o cation syst m so t at it will not includ t aut o ity (fo mal o info mal) fo t l vant Minist y o Commission to qu st c ang s in t t ms of t c nical lic nsing ag ments b tw e n p ivat pa ti s xc pt w h n c ssa y to liminat violations of t ntit ust and Fai T ad Law.

7. dv tising

a. Eff ctiv Janua y 1, 1990, t o an v nment will p mit majo ity fo ign quity pa ticipation (i. ., up to nin ty-nin (99) p c nt fo ign quity) i o n t adv tising ag ncy busin ss. Eff ctiv Janua y 1, 1991, t o an v nment will not qui any local quity pa ticipation in fo ign inv stments in t adv tising ag ncy o busin ss (i. ., subsidia i s and all ot fo ms of stablis ment will b p mitt d). Eff ctiv Janua y 1, 1991, t adv tising ag ncy busin ss will b mov d f om t fo ign inv stment "n gativ list," and inv stment t in will b cov d by t notification syst m by Janua y 1, 1993.

b. Fi ms in t adv tising ag ncy busin ss w hic a pa tially o fully fo ign-own d will b acco d d t atment in all-asp cts of t i op ation, and in pa ticula , in t i d alings wit t o an B oadcast Co po ation (OB CO) o any compa abl succ sso , no l ss favo abl t an t at acco d d any o an o ot non- o an adv tising fi ms.

c. T o an v nment will nsu t at OB CO o any compa abl succ sso will op at und t anspa nt p oc du s. o

8. P a mac uticals

a. By July 1, 1989, t o an v nment will p mit full fo ign pa ticipation (i. ., subsidia i s and all ot fo ms of stablis ment will b p o mitt d) in inv stments in t busin ss of w hol saling p a mac utical p oducts.

b. By Janua y 1, 1990, t o an v nment will mov indust y classification numb 35224, "manufactu of m dicaments," f om t n gativ o list so t at fo ign p a mac utical compani s d si ing to inv st in o a will no long b subj ct to qui A ments fo local synt sis of p oducts o local quity pa ticipation (i. ., subsidia i s and all ot fo ms of stablis ment will b p mitt d).

c. By July 1, 1990, t o an v nment will p mit full fo ign pa ticipation (i. ., subsidia i s and all ot fo ms of stablis ment will b p o mitt d) in inv stments in t busin ss of w hol saling cosmetics and toil t i s.

E. n al P ovisions

1. Onc stablis d, all fo ign inv stments will b acco d d national t atment subj ct to t t ms of t is l tt .

2. Not ing in t is l tt d ogat s f om t ig ts of it Pa ty und bilat al ag ments o multilat al ag ments to w hic bot Pa ti s ad . Bot Pa ti s s v t i ig ts und t n al g ment on A

Tariffs an Tra

oth Parti s agr that th t rms an con tions of this l tt r ar to r main unimpair by r strictions or r quir ments ir ctly or in ir ctly aff cting for ign inv stment

4 Nothing in this l tt r pr ju ic s th positions ith r Party may tak in th ruguay Roun of Multilat ral Tra N gotiations

5 oth Parti s agr to consult at th r qu st of ith r Party conc rning any matt r r lating to this l tt r

This l tt r r fl cts our mutual un rstan ing of th actions that th Kor an Gov rnment has agr to tak with r sp ct to inv stment in Kor a

Sinc r ly,

Tong-Jin Park

Ambassa or"

I am pl as to confirm that this xchang of l tt rs is a mutual un rstan ing b tw e n our two gov rnments conc rning th actions that th Kor an gov rnment has agr to tak with r sp ct to inv stment in Kor a

Sinc r ly,

[signatur]

Carla A Hills

FOR IMMEDIATE RELEASE 89-50

May 18, 1989 Contact: Clair uchan

(202) 95- 2 0

OFFICE OF THE NITED STATES

TRADE REPRESENTATIVE

EXEC TIVE OFFICE OF THE PRESIDENT

WASHINGTON

20506

HILLS: KOREA TO LI ERALIZE TRADE AND INVESTMENT

nit Stat s Tra R pr s ntativ Carla A Hills to ay announc that Kor a has agr to lib raliz con itions for for ign inv stment an to liminat significant import barri rs Th s agr ments will b sign n xt w e k

"Kor a's mark t op ning measur s will bring r al an substantial b n fits to American an oth r xport rs an inv stors," Hills sai

"Th s agr ments cr at a us ful pr c nt for th , ruguay Roun an bilat ral n gotiations which will str ngth n th global tra ing syst m. We r main committ to furth r mark t op ning in Kor a, sp cially in agricultur "

Th inv stment agr ment will r sult in r moval of p rformanc r quir ments on for ign inv stors in Kor a an r plac ment of a scr ning syst m with a simpl notification proc ur for most for ign inv stments P rformanc r quir ments, such as con itions that a pro uc r xport a c rtain portion of his pro uction, hav cr at significant istortions in th int rnational tra ing syst m.

Kor a also will fully op n its mark t to for ign trav l an a v rtising ag nci s an whol sal rs of pharmac uticals an cosmetics It also will r mov r quir ments that pharmac utical compani s pro uc th ir pro ucts in Kor a U

Korea wi er a e i "border c o ure" prac ice of ba i g impor o pro ec ew oca produc io . Korea ha i defi i e y u pe ded i regu a io requiri g burde o c i ica e i g of foreig pharmaceu ica produc i Korea. I wi a o adop imp ified impor procedure for co ic a d food abe i g a d i agreed o recog ize a d waive qua i y i pec io require for er a io a y recog ized a dard or cer ifica io mark .

The wo gover i me have o bee ab e o agree a hi ime o addi io a ibera iza io mea ure for agricu ura produc . o Apri he Korea Gover me e a ou ced ibera iza io by 1991 of 243 agricu ura a d fi herie produc . However, he U i ed S a e i reque i g e fur her ibera iza io . GATT fi di g uppor he U.S. a d o her cou rie ' reque for fur e her ibera iza io of Korea' agricu ura impor re ric io .

OUTLINE OF THE U.S.-ROK LOCALIZATION AGREEMENT

The May 19 U.S.-Korea oca iza io agreeme addre e 8a u er of Korea po icie a d procedure which have adver e y affec ed U.S. expor o Korea. Fo owi g i a u ry of ome of he key e eme of hi rade agreeme :

"border c o ure " -- Korea' Tech o ogy Deve opme Promo io a d Pharmaceu ica Affair aw s wi be revi ed i 19 9 o e imi a e he border c o ure provi io which a ow s he b ma oca i du ry, o ce i begi produc io of a ew produc i Korea, o reque ha impor of ha produc be ba ed. A exi i g border c o ure mea ure wi be er i a ed by Ju y 1990 -- o ew border c o ure wi be i voked effec ive i dia e y;

" pecia aw s" -- Korea' 39 i du ry pecific aw s wi be made GATT-co i e a d ra pare ;

pre-impor o ifica io -- i du ry a ocia io i vo veme i pre-impor o ifica io wi be e imi a ed; me
procedure wi be imp ified a d expedi ed;

cu o procedure -- Korea cu o regu a io , procedure a d appea proce wi be de more ra pare a d wi be app ied u ifor y a d expedi iou y;

a dard -- Korea wi exe from qua i y i pec io i er a io a y-recog ized a dard mark a d mark fro we -k ow n pub ic orga iza io i foreig cou rie ; a review of Korea' qua i y i pec io procedure wi be u der ake wi h a view o harmo iza io wi h deve oped cou ry procedure , i c udi g e f-a cer ifica io ;

food abe i g -- i forma io requireme wi be re axed effec ive Augu 19 9;

p mme
co e ic -- e i g a d regi ra io procedure wi be revi ed a d ubmi ed for co 8 by Sep ember 19 9 a d impeme ed by March 1990; by Sep ember 19 9 epara e e i g wi o be required for produc co or; whe who e a i g of co me ic i ope ed o foreig par icipa io i Ju y 1990, foreig compa ie wi o have o re-regi er heir produc i order o marke hem i Korea;

pharmaceu ica -- good c i ica prac ice regu a io wi be revi ed a d are u pe ded a draf ed.

No e: Thi i a ou i e -- p ea e read he agreeme for more de ai a d he au hori a ive ex .

GEarp; 5-5- 9

202/395-6 13

THE AMBASSADOR EMBASSY OF THE REPUBLIC OF KOREA

TONG-JIN PARK WASHINGTON,D C

May 19, 19 9

The Ho orab e Car a A. Hi

The U i ed S a e Trade Repre e a ive

Office of he U.S. Trade Repre e a ive

600 Seve ee h S ree , N.W., 8

Washingt n C 20506

ar Ambassad r Hills:
e
I have the h n r t refer t the recent c ns ltati ns held between representatives f the G overnment f the Rep blic f K rea (K rean G overnment) and the G overnment f the United States f America (U S G overnment) regarding certain f K rea's practices with respect t b rder cl s re standards and testing req irements and c st ms pr ced res As a res lt f these c ns ltati ns K rea has agreed t take the f ll wing acti ns:

A Imp rt Restricti ns

1 By September 20 1989 the K rean G overnment will s bmit amendments t its Nati nal Assembly t repeal b rder cl s re pr visi ns i e in the Techn l gy vel pment Pr moti n Law Article 8 2 and the Pharmace tical Affairs Law Article 72-4 e

2 Up n passage by the Nati nal Assembly f amendments referred t in the preceding paragraph the K rean G overnment will revise relevant reg lati ns t implement these amendments by April 1 1990

3 The K rean G overnment will terminate all remaining b rder cl s re meas res by J ly 1 1990 and effective immediately will n t inv ke any new b rder cl s re meas res Up n receipt f Ministry f Health and S cial Affairs (MOHSA) imp rt registrati n these pr d cts will be s bject t simple imp rt rep rting/n tificati n pr ced res (See attachment f r a list f pr d cts affected by b rder cl s re meas res and the timetable f r imp rt liberalizati n)

4 The K rean G overnment will d its tmost t ens re that the applicati n f the safeg ards pr visi ns f K rea's F reign Trade Law will be c nsistent with Article XIX f the General Agreement n Tariffs and Trade (GATT)

5 The K rean G overnment will apply the pr visi ns f Ministry f Health and S cial Affairs N tice 89-12 entitled "The G ideline f r Man fact ring and Man fact red Items regarding Pharmace tical Pr d cts " s lely t imp rts and man fact res f Ginkg leaf extracts and finished pr d cts c ntaining s ch extracts This n tice will n t be extended t apply t any ther pr d ct

6 The K rean G overnment will c ntin e t review its "individ al" laws in rder t expediti sly identify and change th se pr visi ns and meas res which are n t c nsistent with its GATT bligati ns and t enhance transparency In the interim, neither these laws n r their applicati n will-be made more restrictive

7 Effective immediately the K rean G overnment will ens re that any req irement f r pre-imp rt rep rting r n tificati n d es n t create any bstacles t trade

8 Except f r the p rp se f p blic health safety and envir nmental preservati n by cember 31 1989 the K rean G overnment will draft and implement a plan t red ce r eliminate pre-imp rt rep rting/n tificati n req irements and t phase t participati n f ind stry ass ciati ns in the pre-imp rt rep rting/n tificati n

system.

9 The K rean G overnment c nfirms that the pre-imp rt fee f r pharmace tical pr d cts has been eliminated and that the nly remaining pre-imp rt rep rting/n tificati n fee c llected by the Medical vice Man fact ring Ass ciati n will be eliminated by J ly 1 1989 e

10 By Oct ber 1 1989 the K rean G overnment will simplify d c mentati n req irements f r pre-imp rt rep rting/n tificati n and will ens re that pre-imp rt appr val nder s ch a system is iss ed expediti sly

11 The K rean G overnment will ens re that its c st ms reg lati ns pr ced res and appeals pr cess are transparent and apply in a nif rm and expediti s manner

B Standards

1 The K rean G overnment will n tify t the GATT Agreement n Technical Barriers t Trade trade-related standards and technical reg lati ns which are n t based n well rec gnized internati nal standards r which u

deviate f m t e tanda d .

2. Unde t e Indu t ial P duct Quality c nt l Law, t e K ean G ove n me nt will exclude f m p i uality in pecti n inte nati nally- ec gnized tanda d ce tificati n ma k and ma k f m well-kn wn public ganizati n in f eign c unt ie .

3. By Augu t 1, 1989, t e K ean G ove n me nt will (a) accept a ingle indicati n f f e ne q n f d p duct label c n i ting f t e "be t bef e" date and (b) will pe mi t u e f "cla na me " f c l and flav ing (e.g., "a tificial c l ") wit t e excepti n f t e c l Yell w 5. T e K ean G ove n me nt will ann unce and publicize n late t an June 30, 1989, it deci i n t accept uc labeling effective n Augu t 1, 1989. T e K ean G ove n me nt ma y p ibit t e u e f cla na me f c l , in additi n t Yell w 5, if uc c l a e p ven t cau e ealt p ble .

4. a) By Septe mb e 1, 1989, t e K ean G ove n nt will n tify t t e Ag ee me nt n Tec nical Ba ie t T ade evi ed egulati n pe taining t te ting and egi t ati n e ui e me nt f c me tic . In d afting uc egulati n , t e K ean G ove n me nt will take int acc unt elevant inte nati nal p actice .

b) Suc evi ed p cedu e will be i mp le me nted by Ma c 1, 1990.

c) T e K ean G ove n me nt c nfi t at effective i e diately, w e e p duct te ting i e ui ed, t e nu mb e f a ple e ue ted will be li mi ted t t e mi ni m nece a y t pe f m ade uate te ting.

d) By Septe mb e 1, 1989, epa ate te ting will n t be e ui ed f va iati n in p duct c l .

e) T e K ean G ove n me nt c nfi t at it d e n t te t ing edient li ted in t e C me tic, T ilet y and F ag ance A ciati n (CTFA) Dicti na y and, effective n July 1, 1989, will n t te t ing edient c ntained in t e CFTA' "Lette f Intent t Publi in t e Supple me ntal Editi n f t e CFTA Dicti na y."

f) Effective July 1, 1990, f eign w h le ale f c me tic ma y di t ibute p evi u ly egi te ed c me tic p duct wit ut i mp edi me nt.

5. a) T e K ean G ove n me nt will eview it G o d Clinical P actice (GCP) egulati n wit a view t a nizati n wit inte nati nal p actice and c nfi t at t e i mp le me ntati n f t e GCP a d afted i u pended.

b) T e K ean G ove n me nt will n tify t e d aft GCP egulati n t t e GATT Ag ee me nt n Tec nical Ba ie t T ade f pa tie ' c q nt.

c) T e K ean G ove n me nt c nfi t at, in t e inte i m, it will c ntinue t accept t e f ll wing a t e nly afety and efficacy c nditi n f t e app val f i mp tati n and p ducti n f p a ma ceutical :

i) U.S. F d and D rug Ad mi ni t ati n FDA) ce tificati n f p a ma ceutical and FDA-app ved te t data; and

ii) li mi ted P a e III te ting in K ea f a d ug t at a been ma keted in f eign c unt ie f le t an t ee yea a d ug t at a been ma keted nly in t e c unt y w e e it wa devel ped.

6. a) By t e end f 1989, t e nu mb e f ite ubject t type app val p i t i mp tati n unde t e Elect ical P duct Safety C nt l Law will be educed ub tantially and t e ite exe ted f type app val will be ubject, t a i le n tificati n f intent t i mp t. T e type app val y te m will be i mp lified and f eign ma nufactu e will be able t btain type app val.

b) T e K ean G ove n me nt will c ntinue t eview it uality in pecti n p cedu e wit a view t a nizati n wit devel ped c unt y p cedu e .

C. Gene al P vi i n

1. B t Pa tie ag ee t c n ult at t e e ue t f eit e Pa ty c nce ning any ma tte elating t t i lette .

2. B t Pa tie ag ee t at t e te and c nditi n f t i lette a e t e ma in uni mp ai ed by di ect indi ect q e t icti n .

This lette e le ts mut al nde standing the a ti ns that the K ean G ove nment has ag eed t take with espe t t b de l s e, standa ds and testing eq i ements, and st ms p ed es.

Sin e ely,

[signat e

T ng-Jin Pa k

The H on able T ng-Jin Pa k

Ambassad

Embassy the Rep bli K ea

2370 Massa h setts Aven e, N.W.

Washingt n, D.C. 20008

Dea Ambassad Pa k:

I have the h n t a kn wledge e eipt y lette and its atta hment dated May 19, 1989, n e ning the a ti ns the K ean G ove nment has ag eed t take n e ning e tain its p a ti es with espe t t b de l s e, standa ds and testing eq i ements, and st ms p ed es. Y lette and atta hment ead as ll ws:

"Dea Ambassad Hills:

I have the h n t e e t the e ent ns ltati ns held between ep esentatives the G ove nment the Rep bli K ea (K ean G ove nment) and the G ove nment the United States Ame i a (U.S. G ove nment) ega ding e tain K ea's p a ti es with espe t t b de l s e, standa ds and testing eq i ements, and st ms p ed es. As a es lt these ns ltati ns, K ea has ag eed t take the ll wing a ti ns:

A. Imp t Rest i ti ns

1. By Septembe 20, 1989, the K ean G ove nment will s bmit amendments t its Nati nal Assembly t epeal b de l s e p visi ns, i.e., in the Te hn l gy Devel pment P moti n Law A ti le 8.2 and the Pha ma e ti al A ai s Law A ti le 72-4.

2. Up n passage by the Nati nal Assembly amendments e e ed t in the p e eding pa ag aph, the K ean G ove nment will evise elevant eg lati ns t implement these amendments by Ap il 1, 1990.

3. The K ean G ove nment will te minate all emaining b de l s e meas es by J ly 1, 1990, and e e tive immediately, will n t inv ke any new b de l s e p visi ns. Up n e eipt Minist y Health and S ial A ai s (MOHSA) imp t egist ati n, these p d ts will be s bje t t simple imp t ep ting/n ti i ati n p ed es. (See atta hment a list p d ts a e ted by b de l s e meas es and the timetable imp t libe alizati n.)

4. The K ean G ove nment will d its tmost t ens e that the appli ati n the sa eg a ds p visi ns K ea's F eign T ade Law will be nsistent with A ti le XIX the Gene al Ag eement n Ta i s and T ade (GATT).

5. The K ean G ove nment will apply the p visi ns Minist y Health and S ial A ai s N ti e 89-12, entitled "The G uideline Man a t ing and Man a t ed Items Rega ding Pha ma e ti al P d ts," s lely t imp ts and man a t es Ginkg lea ext a ts and inished p d ts ntaining s h ext a ts. This n ti e will n t be extended t apply t any the p d t.

6. The K ean G ove nment will ntin e t eview its "individ al" laws in de t expediti sly identi y and hange th se p visi ns and meas es whi h a e n t nsistent with its GATT bligati ns and t enhan e t anspa en y. In the inte im, neithe these laws-n thei appli ati n will-be made mo e est i tive.]

7. Effect e tely, the Kore n Go ernment w ll ensure th t ny requ rement for pre- mport report ng or not f c t on oes not cre te ny obst cles to tr e.

8. E cept for the purpose of publ c he lth, s fety n en ronment l preser t on, by December 31, 1989, the Kore n Go ernment w ll r ft n mpleme nt pl n to re uce or el n te pre- mport report ng/not f c t on requ rements n to ph se out p rt c p t on of n ustry ssoc t ons n the pre- mport report ng/not f c t on system.

9. The Kore n Go ernment conf rms th t the pre- mport fee for ph r ceut c l pro ucts h s been el n te n th t the only re n ng pre- mport report ng/not f c t on fee collecte by the Me c l De ce M anuf ctur ng Assoc t on w ll be el n te by July 1, 1989.

10. By October 1, 1989 the Kore n Go ernment w ll s mpl fy ocument t on requ rements for pre- mport report ng/not f c t on n w ll ensure th t pre- ort ppro l un er such system s ssue e pe t ously.

11. The Kore n Go ernment w ll ensure th t ts customs regul t ons, proce ures n ppe ls process re tr nsp rent n ppl e n un form n e pe t ous nner.

B. St n r s p

1.The Kore n Go ernment w ll not fy to the GATT Agreement on Techn c l B rr ers to Tr e tr e-rel te st n r s n techn c l regul t ons wh ch re not b se on well-recogn ze ntern t on l st n r s, or wh ch e te from those st n r s.

2. Un er the In ustr l Pro ucts Qu l ty Control L w, the Kore n Go ernment w ll e clu e fro pr or qu l ty nspect on ntern t on lly-recogn ze st n r or cert f c t on rks n rks from well-known publ c org n z t ons n fore gn countr es.

3. By August 1, 1989, the Kore n Go ernment w ll ( ) ccept s ngle n c t on of freshness on foo pro uct l bels cons st ng of the "best before" te n (b) w ll per t use of "cl ss n mes" for colors n fl or ngs (e.g., " rt f c l colors") w th the e cept on of the color Yellow 5. The Kore n Go ernment w ll nnounce n publ c ze no l ter th n June 30, 1989, ts ec s on to ccept such l bell ng effect e on August 1, 1989. The Kore n Go ernment y proh b t the use of cl ss n mes for colors, n t on to Yellow 5, f such colors re pro en to c use he lth problems.

4.) By September 1, 1989, the Kore n Go ernment w ll not fy to the Agreement on Techn c l B rr ers to Tr e re se regul t ons pert n ng to test ng n reg str t on requ rements for cosmet cs. In r ft ng such regul t ons, the Kore n Go ernment w ll t ke nto ccount rele nt ntern t on l pr ct ces.

b) Such re se proce ures w ll be mpleme nte by M arch 1, 1990.

c) The Kore n Go ernment conf rms th t effect e tely, where pro uct test ng s requ re , the number of s ples requeste w ll be l te to the n mum necess ry to perform equ te test ng.

) By September 1, 1989, sep r te test ng w ll not be requ re for r t ons n pro uct color.

e) The Kore n Go ernment conf rms th t t oes not test ngre ents l ste n the Cosmet c, To letry n Fr gr nce Assoc t on (CTFA) D ct on ry n , effect e on July 1, 1989, w ll not test ngre ents cont ne n the CTFA's "Letter of Intent to Publ sh n the Supplement l E t ons of the CTFA D ct on ry."

f) Effect e July 1, 1990, fore gn wholes lers of cosmet cs y str bute pre ously reg stere

cos et cs pro ucts w thout mpe ment.

5.) The Kore n Go ernment w ll re ew ts Goo

Cl n c l Pr ct ces (GCP) regul t ons w th ew

to h rmon z t on w th ntern t on l pr ct ce n

conf rms th t the mpleme nt t on of the GCP s x drafted i e ded

b) The Korea Gover me t will otify the draft GCP

reg latio to the GATT Agreeme t o Tech ical

Barrier to Trade for artie comme t

c) The Korea Gover me t co firms that, i the

i terim, it will co ti e to acce t the followi g

a the o ly afety a d efficacy co ditio for the

a roval of importatio a d rod ctio of

harmace tical :

i)U S Food a d Dr g Admi i tratio (FDA) certificatio of harmace tical a d FDA a roved te t data; a d

ii) limited Pha e III te ti g i Korea of a dr g that ha bee marketed i foreig co trie for le tha three year or a dr g that ha bee marketed o ly i the co try where it wa develo ed

6 a) By the e d of 1989, the mber of items bject to ty e a roval rior to importatio der the Electrical Prod ct Safety Co trol Law will be red ced b ta tially a d tho e items exempted from ty e a roval will be bject to a imple otificatio of i te t to import The ty e a roval y tem will be implified a d foreig ma fact rer will be able to obtai ty e a roval

b) The Korea Gover me t will co ti e to review it q ality i ectio roced re with a view to harmo izatio with develo ed co try roced re

C Ge eral Provi io

1 'Both Partie agree to co lt at the req e t of either Party co cer i g a y matter relati g to thi letter

2 Both Partie agree that the terms a d co ditio of thi letter are to remai impaired by direct or i direct re trictio

Thi letter reflect o r mut al der ta di g of the actio that the Korea Gover me t ha agreed to take with re ect to border clo re, ta dard a d te ti g req ireme t , a d c toms roced re

Si cerely,

To g-Ji Park

Amba ador"

I am lea ed to co firm that thi excha ge of letter i cl di g the attachme t thereto i a mut al der ta di g betwee o r two gover me t co cer i g the actio that the Korea gover me t ha agreed to take with re ect to certai of it ractice with re ect to border clo re, ta dard a d te ti g req ireme t , a d c toms roced re

Carla A Hill

ATTACHMENT

Li t of rod ct for which border clo re mea re will be termi ated a d the timetable for ch actio '

HSK	Product Description	Date Planned to be Liberalized
2932909000	Ra itidi e Hcl	J e 1, 1989

2941909090	Cef e ne N	e tembe 1, 1989
2842909000	Hyd t lcide J	Se tembe 1, 1989
2924219000	P glumide	nu y 1, 1990
2939901000	dl-Methyle h d ine Hcl J	nu y 1, 1990
2930909090	S-C b xymethylcystein J	nu y 1. 1990
2906132000	In sit l	nu y 1, 1990
2941909010	K n mycine Sulf te	nu y 1, 1990
2941909010	S luble K n mycine Sulf te J	nu y 1, 1990
2941909090	Rif mpicine	nu y 1, 1990
9602001000	Empty Gel tin C sule	nu y 1, 1990
3003300400	Medic ments cting n the Ci cul SystemJ	nu y 1, 1990
3507909000	Se ti e tid se	uly 1, 1990