Korea Market Access For Ci arettes Record Of Understandin

RECORD OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF KOREA CONCERNING MARKET ACCESS FOR CIGARETTES

The Government of the United States of America and the Government of the Republic of Korea, reco nizin   the need to provide open and non-discriminatory access for imported ci arettes to the Korean market, have a reed as follows:

I. BASIS OF THE UNDERSTANDING

A. The Government of the Republic of Korea (hereinafter shall be referred to as "the Korean   overnment) shall accord forei n ci arette manufacturers, their subsidiaries, affiliates, branch offices or a ents (hereinafter shall be referred to as 'forei n ci arette manufacturers") non-discriminatory access to the Korean market includin   the ri ht to import, distribute, and sell imported ci arettes on terms consistent with this Record of Understandin .

B. Except as otherwise provided in this Record of Understandin , importation, distribution, and sale of imported ci arettes shall occur independent of the authority of the Korean Monopoly Corporation (hereinafter shall be referred to as "KMC").

C. The Korean   overnment shall ensure that the level and conditions of market access for imported ci arettes provided for in this Record of Understandin   remain unimpaired by restrictions or requirements affectin   directly or indirectly the importation, distribution or sale of imported ci arettes.

The Korean   overnment shall accord full national treatment in the importation, distribution and sale of imported ci arettes.

Any modification of the conditions of distribution or sale of ci arettes in the Korean market shall be applied equally to all classes and brands of ci arettes whether imported or of na-tional ori in.

II. CONDITIONS OF IMPORTATION

A. The Korean   overnment shall ensure that KMC automatically and immediately commission to any domestic or forei n-invested entity qualified to en a e in import activities under the Korean Forei n Trade Act desi nated by any forei n ci arette manufacturer the authority to import, distribute, and sell imported ci arettes. Such commission shall be effective from July 1, 1988 to the effective date of the le islation enact-ed in connection with this Record of Understandin   (hereinafter shall be referred to as "new le islation") . Any entity   ranted authority to import, distribute, or sell imported ci arettes shall be able to enter into a reements with wholesalers, distributors, or subdistributors to en a e in these same activities.

Until the effective date of the new le islation, such entity shall provide KMC with a list of the parties to such a reements.

Upon the effective date of the new le islation, ci arettes shall be placed on automatic import approval status, and the requirement for the commissionin   by KMC of the authority to import, dis-tribute, or sell imported ci arettes shall be rescinded in accordance with the new le islation.

Effective January 1,1989, forei n ci arette manufacturers shall be permitted to import directly and sell ci arettes in Korea upon automatic and immediate commissionin   of such authority by KMC.

B . Any forei n ci arette manufacturer shall be permitted to import ci arettes directly into Korea without restriction on product cost, retail price, retail mar in, quantity, style, size, packa e confi uration, or frequency of g importation pt that th r tail margin shall not d 10 p r nt of th r tail pri for a p riod not to t nd b yond D e mb r 31 1988.

C. Th importing ntity shall b sol ly r sponsibl for all fun tions and a ti iti s r lat- d to th importation pro ss and formal ustoms l aran and ustoms ntry into th R publi of Kor a. Imports of igar tt s shall b l ar d through Kor an ustoms p ditiously in a ordan with appli abl laws and standard pro dur s.

D. Any for ign igar tt manufa tur r shall b p rmitt d to own bond d war hous s in a ordan with r l ant Kor an laws. In addition su h ntiti s shall b abl to maintain op rat and manag bond d war hous s and to d t rmin war hous in ntory l ls. Su h ntiti s op rating bond d war hous s shall b sol ly r sponsibl for th flow of goods into and out of su h war hous s as well as th distribution of said goods through whol sal rs ind p nd nt distributors and dir tly to r tail outl ts.

III. CONDITIONS OF DISTRIBUTION

A. Any for ign igar tt manufa tur r shall b p rmitt d to distribut igar tt s through whol sal rs distributors and subdistributors to li ns d r tail outl ts. In addition any for ign igar tt manufa tur r shall b p rmitt d to s ll dir tly igar tt s to whol sal rs distributors subdistributors and li ns d r tail outl ts. Sal s of igar tt s at r tail pri s may b off r d only by li ns d r tail outl ts or s r i busin ss s whi h pur has igar tt s from li ns d r tail outl ts.

B. Import d igar tt s may b sold dir tly to li ns d duty-fr outl ts without payment of any f s duti s or ta s.

C. All r tail rs urr ntly d signat d by th KMC to s ll igar tt s of national origin shall b p rmitt d to s ll import d igar tt s without imposition of any additional r quir ment. Appli ations for d signation as a igar tt r tail r shall b grant d automati ally and immediat ly by th appropriat Kor an authority pro id d that su h appli ations satisfy th appli abl laws and r gulations.

D. Any for ign igar tt manufa tur r may r tain th s r i s of th KMC to distribut import d igar tt s und r th t rms to b mutually agr d upon b tw e n th m.

IV. PRICING

A. Any for ign igar tt manufa tur r shall d t rmin th import pri and r tail pri for a h typ styl or brand of import d igar tt s. Th s pri s may b adjust d at th dis r tion of th for ign igar tt manufa tur r.

Prior to th ff ti dat of th n w l gislation a for ign igar tt manufa tur r should notify th KMC of th nationwid uniform r tail pri at whi h a h brand of igar tt s shall b sold and aft r th ff ti dat of th n w l gislation should notify th Ministry of Finan of th r tail pri as d t rmin d by su h for ign igar tt manufa tur rs. Th ff ti dat of su h r tail pri shall b th si th day following su h notifi ation.

B. Commer ial t rms f s ommissions r tail margins r dit and in ntory t rms and pri s to all lass s of trad shall b d t rmin d sol ly by th for ign igar tt manufa tur rs import rs whol sal rs distributors and oth r ag nts.

C. Th Kor an go rnment shall submit to th National Ass mbly at th op ning of its Fall 1988 s ssion all l gislation n ssary to stablish a sp ifi is ta on all igar tt s th rights of for ign igar tt manufa tur rs to ngag in all a ti iti s s t forth in this R ord of Und rstanding and a z ro p r nt import tariff on igar tt s. Su h is ta shall b appli d to all igar tt s wh th r import d or of national origin. Th sp ifi amount of ta shall b 18 000 won p r thousand igar tt s. Howe r igar tt s with a r tail pri of 200 won or l ss may b subj t to a lower is ta .

Th is ta shall r pla any and all oth r ta s and r nu measur s in luding lo al and r gional ta s. Th l gislation stablishing th is ta shall sp ify that th t rms and onditions of th payment of said ta shall b th same for igar tt s of national origin and import d igar tt s. Th Kor an go rnment shall rt v every effort to eve rompt en tment of su leg sl t on. on en tment of su leg sl t on, t e Kore n government s ll t ke ll ne ess ry ste s to mplement t e l w mmed tely.

Pr or to t e effe t ve d te of t e new leg sl t on, t e f n n l ontr but on y ble by t e fore gn g rette manuf turer to t e KMC s ll be 18, won er t ous nd g rettes. T s yment s ll onst tute ll f n n l ontr but ons mposed on mported g rettes n lud ng t r ffs, defense t xes, v lue dded t xes, edu t on t x, tob o s les t xes, mo-no oly yments, nd ny ot er ssessments or rges.

U on yment by t e fore gn g rette manuf turer to t e KMC of 1 ,8 won er t ous nd g rettes, t e KMC s ll rov de mmed tely to t e fore gn g rette manuf turer re e t of roof of yment.

Present t on of su re e t t ustoms s ll s t sfy ll requ rements for yment of ny t x burden needed to ompl s formal ustoms entry. Wit n t rty (3) d ys from t e end of t e mont of ustom entry, t e fore gn g rette manuf turer s ll y to KMC 7,2 won er t ous nd g rettes. Any nd ll l b l ty for yment of e ort on of t e f n n l ontr but on s ll e se mmed tely u on resent t on of e yment.

D. Pr or to t e effe t ve d te of t e new leg sl t on, t e Kore n government s ll ensure t t KMC refunds to t e fore gn g rette manuf turer t e ent re f s l ontr but on d by t e fore gn g rette manuf turer n t e event t t mported g rettes ve been so d maged s to be un ble to be sold to onsumers, nd su d m ged g rettes re reex orted w t n one ye r of ustoms le r n e of su g rettes. T e ort on of t e f s l ontr but on llo ted by KMC to t e edu t on t x nd tob o s les t xes s ll be refunded u on resent t on of roof t t su g rettes ve been ys lly destroyed. U on t e effe t ve d te of t e new leg sl t on, t e Kore n government s ll ensure t t t e ro r te t x ut or ty refunds t e full ex se t x f t e d maged g rettes re reex orted w t n one ye r of ustoms le r n e or u on resent t on of roof t t t e g rettes were ys lly destroyed.

V. INVESTMENT

A. Any fore gn g rette manuf turer may negot te te nology tr nsfer nd enter nto l ens ng greements w t t e KMC.

B. T e zero er ent mport t r ff to be est bl s ed by t e new leg sl t on s ll be ma nt ned t zero er ent unt l su t me s t e Kore n government ermits fore gn nvestment n t e manuf ture of g rettes n Kore w t out restr t on on t e form of su nvestment.

VI. ADVERTISING AND PROMOTIONAL ACTIVITIES

A. No l ter t n July 1, 1988, t e Kore n government s ll mod fy t e relev nt regul t ons to ermit ny fore gn g rette manuf turer to ondu t tempor ry nd ermanent o nt of s le romot ons nde endently or t roug ret l outlets, rov ded t t su romot ons s ould be ondu ted n t e mmed te v n ty of ret l outlets, nd re ntended to romote w areness of t e v l b l ty of mported g rettes nd to f l t te br nd ex er ment t on mong smokers, nd re not ntended to st mul te new smokers.

B. T e mod f ed regul t ons s ll ermit e fore gn g rette manuf turer to l e 12 dvert sements er br nd f mily n mag z nes nnu lly, rov ded su mag z nes re not s e f lly d re ted t women or yout . Su mag z nes s ll not be subje t to restr t ons n e t ng su dvert sements. In dd t on, su dvert sements s ll n lude Kore n e lt w arn ng n effe t t t e t me of dvert sement.

C. Any fore gn g rette manuf turer may s onsor so l, ultur l, mus l, t let , or s mil r events or fun t ons. Br nd s onsors of su events s ll be ermitted. Su events s ll not be s e f lly d re ted t women or yout .

D . C g rette s mples may be restr ted to st k by st k d str but on t l ensed ret l outlets.

E. A e lt w arn ng 0 ll e r on e k of g rettes. T e text s ll be n t e Kore n l ngu ge on t e s de of t e k ge nd s ll be dent l to t t of Kore n br nds of n t on l or g n. T e ty e s ze, ty e f e, nd format s ll be essent lly equ v lent to t e urrent e lt w arn ng on Kore n br nds of n t on l or g n. In t e event t t t e e lt w arn ng on Kore n br nds of n t on l or g n s mod f ed, min mum of s x mont s dv n e 0 notice s e rovided to e c cig rette manuf cturer, nd cig rettes in inventory or ordered rior to t e modific tion s e owed to continue to e so d in Kore for eriod of one ye r from t e d te of suc dv nce notice.

VII. CONS LTATIONS

A. Bot sides gree to consu t rompt y t t e request of eit er rty on ny matter re ting to t is Record of nderst nding.

B. Initi consu t tions s e e d rior to t e su mission of t e new egis tion to review nd discuss its contents to ensure consistency wit t is Record of nderst nding.

C. B sed on t e commitments cont ined in t is Record of nderst nding, nd in ntici tion t t successfu imp ement tion of t ese commitments wi roceed' s sc edu ed, t e nited St tes government s termin te t e investig tion into Kore 's o icies nd r ctices re ting to market ccess for cig rettes conducted under section 301 of t e .S. Tr de Act of 1974, s mended.

VIII. EFFECTIVE DATE

T is Record of nderst nding s e effective on Ju y 1, 1988.

Done t Was ington, D.C. on t is twenty-sevent d y of May 1988.

For t e Government of t e nited St tes of Americ

For t e Government of t e Re u ic of Kore
