

Korea Revised Cigarette Agreement

U.S. KOREA REACH AGREEMENT ON CIGARETTES

OFFICE OF THE UNITED STATES

TRADE REPRESENTATIVE

Executive Office of the President

Washington, D.C.

20508

FOR IMMEDIATE RELEASE

Friday, August 25, 1995

95-62

Contact: Anne Luzzatto Dianne Wildman

Kirsten Powers

(202) 395-3230

U-S.-Korea Reach Agreement on Cigarettes

The United States achieved its key objectives in reaching agreement to amend the 1988 Record of Understanding Concerning Market Access for Cigarettes. Today's agreement affirms Korea's right to Protect public health while ensuring nondiscriminatory treatment for U.S. exports.

The 1988 agreement ensured market access for foreign cigarettes, limited the type and rates of cigarette taxes, and provided guidelines for advertising of cigarettes. Korea requested consultations to amend the agreement because it wanted to increase cigarette taxes and sharply limit cigarette advertising in an effort to protect public health. Today's agreement provides for Korea to introduce measures intended to reduce smoking through changes in tax and advertising policies.

The USTR-led negotiating team included representatives of the Departments of Health and Human Services to ensure that health concerns were being adequately addressed.

Other key provisions of the agreement include:

- Elimination of Korea's discriminatory mechanism for allocating cigarette revenues to Korean local governments. Revenues from sales of both domestic and imported cigarettes are currently allocated to states based only on local sales of domestic cigarettes. This formula discriminates against imported brands by inducing states to promote consumption of domestic cigarettes in order to raise revenue.
- A planned increase in Korea's specific tax on cigarettes by between 30-50% over current rates. After three years, Korea may apply the same Value Added Tax as is applied to other consumer products.
- Limitations on advertising of cigarettes in Korea in a non-discriminatory manner,
- Consultation with the United States prior to future changes in advertising and tax policy concerning cigarettes to ensure that such changes will not have a discriminatory effect on imported cigarettes.

* * * * *

August 25, 1995

Bilateral consultations between the Governments of the Republic of Korea and the United States of America for the amendment of the 1988 Record of Understanding Concerning Market Access for Cigarettes were held in Washington, D.C. on August 22 - 25, 1995.

The Korean delegation was headed by Mr. Shin Myung-Ho, Deputy Minister for International Affairs of the Ministry of Finance and Economy. The U.S. delegation was headed by Mr. Robert Cassidy, Assistant United States Trade Representative for Asia and Pacific and Mr. David Marchick, Special Assistant to the United States Trade Representative.

As a result of the consultations, the two sides have agreed on the text of the amendment of the ROU which is attached hereto. Mr. Shin Myung-Ho and Ms. Jennifer Hillman, Acting United States Trade Representative. representing the delegations respectively, initialed the agreed text on August 25, 1995.

Mr. Shin Myung-Ho

[signature]

Ms. Jennifer Hillman

[signature]

Attachment

THE UNITED STATES TRADE REPRESENTATIVE

EXECUTIVE OFFICE OF THE PRESIDENT

WASHINGTON, D. C. 20506

SEP 1 1995

The Honorable Kun Woo Park

Ambassador

Embassy of the Republic of Korea

Washington, D.C.

Dear Ambassador Park:

I have the honor to acknowledge receipt of your letter of August 28, 1995, which reads as follows:

"The Honorable Mickey Kantor

United States Trade Representative

600 17th Street, N.W.

Washington, D.C. 20506

Dear Mr. Ambassador:

I have the honor to refer to the recent consultations held between the representatives of the Government of the Republic of Korea ("Korea") and the representatives of the Government of the United States of America ("United States") concerning access for imported cigarettes to the Korean market.

Based on the consultations between their representatives, the two governments have agreed that the 1988 Record of Understanding between the Government of the Republic of Korea and the Government of the United States of America Concerning Market Access for Cigarettes ("ROU") is amended as described below.

Article IV-C of the ROU is amended in its entirety to read:

"C. 1. The Korean government reaffirms its discretion in levying taxes and financial contributions on cigarettes and in protecting public health.

2. (a) The Korean government intends to increase its excise taxes on cigarettes by 30% to 50% above the rate in effect on August 25, 1995. In addition, a Public Fund contribution of 1000 won per thousand cigarettes will be required to be made by both domestic and foreign cigarette manufacturers. The amount of such taxes and contributions may be adjusted at the discretion of the Korean government. In any event, such taxes and contributions shall be applied in equal specific amounts to all cigarettes, whether of or of national origin.

(b) The provisions of paragraph (a) do not apply with respect to cigarettes selling for 200 won or less at the retail level, without prejudice to either party's rights and obligations under the Agreement Establishing the World Trade Organization.

(c) In addition to implementing the aforementioned tax increases, the Korean government may decide to implement a Value Added Tax (VAT) after December 31, 1998. The rate of taxation for cigarettes would be equal to that which is applied to all other consumer products. The VAT would be applied and collected on a nondiscriminatory basis in a similar manner as the Korean government employs for all other consumer products.

3. The allocation of cigarette tax revenues to localities shall take place in a manner that has no discriminatory effect on imports. In establishing the tax revenue from imported cigarettes to be allocated to localities, the Korean government shall rely on cigarette importers' best available data for sales of imported cigarettes that took place in such localities. In determining the requirements for such best available sales data to be submitted, and in changing the current system for collecting taxes on imported cigarettes (should the Korean government decide to do so), the Korean government shall consult with importers of foreign cigarettes through their duly authorized representative representing the collective opinion of such importers, who shall submit their views in a timely manner prior to the introduction of the cigarette tax increase referenced in paragraph 2(a) above. Prior to such tax increase, both governments shall agree on appropriate mechanisms to determine the requirements for the submission of the best available data and to allocate revenue on a non-discriminatory basis. Such mechanisms shall be implemented on or before the effective date of such tax increase.

4. The Korean government will continue to maintain a zero percent import tariff on cigarettes, in accordance with Article V.B of the ROU."

Article VI of the ROU is amended in its entirety to read as follows:

"To promote public health, the Korean government may take any legislative or administrative measures to restrict advertising and promotional activities for cigarette sales. Any such measures, however, shall be applied in a non-discriminatory manner to all cigarettes, whether imported or of national origin."

Article VII of the ROU is amended by adding the following new section:

"D. Before it adopts, or proposes to adopt, any changes in laws or regulations relating to cigarette taxation or advertising and promotional activity, the Korean government shall notify the U.S. government of its intentions at the time the Korean government provides notice to the public pursuant to its relevant laws or regulations, or twenty days before the effective date of any such change, whichever date is earlier, unless emergency circumstances prevent the provision of such notice. Prior to the adoption of any such change, the Korean government agrees to consult in a timely manner with the U.S. government upon request, with a view to ensuring that any such proposed change does not have a discriminatory effect on imports."

This letter and your letter in reply will constitute our mutual understanding on the amendment of the ROU, which will become effective as of the date of my receipt of your letter confirming our mutual understanding.

Sincerely,

Kun Woo Park"

I have further the honor to confirm that your letter reflects the mutual understanding reached between our two governments on the issue of market access for cigarettes and that your letter and this letter in reply constitute our mutual understanding on the amendment of the ROU. Furthermore, with respect to Korean taxes on cigarettes selling for 200 won or less at the retail level, the United States expects that Korean production of such cigarettes will continue to decrease.

Sincerely,

Michael Kantor

[signature]

EMBASSY OF THE REPUBLIC OF KOREA

WASHINGTON, D. C.

THE AMBASSADOR

KUN WOO PARK

August 28, 1995

The Honorable Mickey Kantor

United States Trade Representative

600 17th Street, N.W.

Washington, D.C. 20506

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Based on the consultations between their representatives, the two governments have - agreed that the 1988 Record of Understanding between the Government of the Republic of Korea and the Government of the United States of America Concerning Market Access for Cigarettes ("ROU") is amended as described below.

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(b) The provisions of paragraph (a) do not apply with respect to cigarettes selling for 200 won or less at the retail level, without prejudice to either party's rights and obligations under the Agreement Establishing the World Trade Organization.

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This letter and your letter in reply will constitute our mutual understanding on the amendment of the ROU, which will become effective as of the date of my receipt of your letter confirming our mutual understanding.

Sincerely,

Kun Woo Park

[signature]

EMBASSY OF THE REPUBLIC OF KOREA

WASHINGTON, D. C.

October 4, 1995

Ms. Christina Lund

Deputy Assistant U.S. Representative

Office of the U.S. Trade Representative

600 17th Street, N.W.

Washington, D.C. 20506

Dear Ms. Lund:

I would like to notify you that the government of the Republic of Korea plans to amend the Tobacco Business Law so that the Public Fund Contribution of 1000 won per thousand cigarettes, which sell for more than 200 won per

pack, will be required to be made by both domestic and foreign cigarette suppliers effective from January 1, 1996.

The Korean government announced on September 23, 1995 the enclosed public notice on the draft amendment to the Tobacco Business Law which contains the above mentioned plan.

Please be advised that this notification is hereby given under Article VII, paragraph D of the Record of Understanding between the government of the Republic of Korea and the government of the United States of America Concerning Market Access for Cigarettes.

Sincerely yours,

Jong Hoon Kim

[signature]

Counselor for Economic Affairs

EMBASSY OF THE REPUBLIC OF KOREA

WASHINGTON, D. C.

January 18, 1996

Ms. Christina Lund

Deputy Assistant U.S. Trade Representative

Office of the U.S. Trade Representative

600 17th Street, N.W.

Washington, D.C. 20506

Dear Ms. Lund:

As I explained to you verbally last August, the draft amendment of the tariff rate schedule was duly passed by our legislature on November 16, and was announced publicly on December 6, 1995.

The amendment included a reduction in the tariff rate to zero percent for media bearing computer software as shown in the attachment.

The amended tariff rate has already come into effect as of January 1, 1996. I hope that you will find the above measure satisfactory.

Sincerely yours,

Jong Hoon Kim

[signature]

Counselor for Economic Affairs

Attachment: as stated

(Attachment)

Items for which the Tariff Rate Was Lowered to Zero Percent

H.S. 8524.31 Disks for laser reading systems: For reproducing phenomena other than sounds or images Bearing data or instructions for use in automatic data processing equipment

H.S. 8524.40 Magnetic tapes for reproducing phenomena other than sounds or images: (1) Of a width not exceeding 4mm, and Bearing data or instructions for use in automatic data processing equipment

(2) Of a width exceeding 4mm but not exceeding 6.5 mm, and Bearing data or instructions for use in automatic data processing equipment

(3) Of a width exceeding 6.5 mm, and Bearing data or instructions for use in automatic data processing equipment H.S. 8524.91 Other: For reproducing phenomena other than sounds or images Bearing data or instructions for use in automatic data processing equipment

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Bearing data or instructions for use in automated data processing equipment.

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