

Under section 304 of the Trade Act, the USTR must determine within 18 months after the date on which this investigation was initiated, or within 30 days after the conclusion of World Trade Organization dispute settlement procedures, whichever is earlier, whether any act, policy, or practice or denial of trade agreement rights described in section 301 of the Trade Act exists and, if that determination is affirmative, the USTR must determine what action, if any, to take under section 301 of the Trade Act.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the EU acts, policies and practices which are the subject of this investigation, the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices, and the determinations required under section 304 of the Trade Act. Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and must be filed on or before noon on Wednesday, November 6, 1996. Comments must be in English and provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, Room 223, Office of the U.S. Trade Representative, 600 17th Street, NW, Washington, DC 20508.

Comments will be placed in a file (Docket 301-114) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. An appointment to review the docket (Docket No. 301-112) may be made by calling Brenda Webb (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Irving A. Williamson,

Chairman, Section 301 Committee.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-112]

Initiation of Section 302 Investigation and Request for Public Comment: Japan Market Access Barriers to Agricultural Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation; request for written comments.

SUMMARY: The United States Trade Representative (USTR) has initiated an investigation under section 302(b)(1) of the Trade Act of 1974, (the Trade Act), with respect to certain acts, policies and practices of the Government of Japan concerning Japan's prohibition on imports of certain agricultural products. Specifically, for each agricultural product for which Japan requires quarantine treatment, Japan prohibits the importation of each variety of that product until the quarantine treatment has been tested for that variety, even though the treatment has proven effective with respect to other varieties of the same product. This redundant testing requirement has no apparent scientific basis but serves as a significant barrier to market access. The United States alleges that these acts, policies and practices are inconsistent with certain provisions of the Agreement on the Application of Sanitary and Phytosanitary measures, the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), and the Agreement on Agriculture. USTR invites written comments from the public on the matters being investigated.

DATES: This investigation was initiated on October 7, 1997. Written comments from the public are due on or before noon on Tuesday, November 11, 1997.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Audra Erickson, Office of Agricultural Affairs (202) 395-6127, Elizabeth Hyman, Office of the General Counsel, (202) 395-3150, or Daniel Brinza, Senior Advisor and Special Counsel for Natural Resources, (202) 395-7305.

SUPPLEMENTARY INFORMATION: Section 302(b)(1) of the Trade Act, 19 U.S.C. 2412(b)(1), authorizes the USTR to initiate an investigation under chapter 1 of Title III of the Trade Act (commonly referred to as "section 301") with respect to any matter in order to determine whether the matter is actionable under section 301. Matters

actionable under section 301 include, *inter alia*, the denial of rights of the United States under a trade agreement, or acts, policies, and practices of a foreign country that violate or are inconsistent with the provisions of, or otherwise deny benefits to the United States under, any trade agreement.

Investigation and Consultations

On October 7, 1997, having consulted with the appropriate private sector advisory committees, the USTR determined that an investigation should be initiated to assess whether certain acts, policies and practices of Japan regarding a prohibition on imports of certain agricultural products are actionable under section 301(a) and has requested the consultations required under section 303(a) of the Trade Act. For each agricultural product for which Japan requires quarantine treatment, Japan prohibits the importation of each variety of that product until the quarantine treatment has been tested for that variety, even though the treatment has proven effective with respect to other varieties of the same product. The relevant provisions of Japanese laws include the Plant Protection Law (Law No. 151) enacted May 4, 1950, as amended, and the Plant Protection Law Enforcement Regulation (Ministry of Agriculture, Forestry and Fisheries Ordinance No. 73) of June 30, 1950, as amended.

For example, after years of effort by the United States, in January 1995 Japan agreed to permit imports of U.S. Red Delicious and Golden Delicious apples based on Japan's determination that treatment of fruit from inspected orchards both with methyl bromide fumigation and a cold storage treatment would be effective against codling moth, a plant pest. However, Japan has refused to allow other varieties of apples, such as Gala, Fuji, Braeburn, Jonagold and Granny Smith, to be imported into Japan unless lengthy and expensive tests are performed on each variety to prove the efficacy of the same methyl bromide/cold storage treatment at killing codling moths. There is no scientific basis for distinguishing between different varieties of fruit in this respect. This practice of Japan affects not just apple imports, but imports of other fruit as well.

The USTR believes that these measures are inconsistent with the obligations of Japan under several provisions of the WTO Agreements, including Articles 2, 3, 4, 5, 7 and 8 of the Agreement on the Application of Sanitary and Phytosanitary Measures; Article XI of the General Agreement on

Tariffs and Trade 1994; and Article 4 of the Agreement on Agriculture.

On April 7, 1997, the Government of the United States requested consultations with Japan regarding these measures pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"), Article 11 of the Agreement on the Application of Sanitary and Phytosanitary Measures, Article XXIII of the General Agreement on Tariffs and Trade 1994, and Article 19 of the Agreement on Agriculture.

Under section 304 of the Trade Act, the USTR must determine within 18 months after the date on which this investigation was initiated, or within 30 days after the conclusion of World Trade Organization dispute settlement procedures, whichever is earlier, whether any act, policy, or practice or denial of trade agreement rights described in section 301 of the Trade Act exists and, if that determination is affirmative, the USTR must determine what action, if any, to take under section 301 of the Trade Act.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the acts, policies and practices of Japan which are the subject of this investigation, the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices, and the determinations required under section 304 of the Trade Act. Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and must be filed on or before noon on Tuesday, November 11, 1996. Comments must be in English and provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, Room 223, Office of the U.S. Trade Representative, 600 17th Street, NW, Washington, DC 20508.

Comments will be placed in a file (Docket 301-112) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. An appointment to review

the docket (Docket No. 301-112) may be made by calling Brenda Webb (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Irving A. Williamson,

Chairman, Section 301 Committee.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D-19]

WTO Dispute Settlement Proceeding Regarding Korean Taxes on Alcoholic Beverages

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that the United States has requested establishment of a dispute settlement panel under the Agreement Establishing the World Trade Organization (WTO), to examine excise taxes imposed by Korea on distilled spirits. In this dispute the United States alleges that Korea's excise taxes are inconsistent with Article III:2 of the General Agreement on Tariffs and Trade 1994 (GATT 1994). USTR also invites written comments from the public concerning the issues raised in the dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before November 1, 1997 to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Ileana Falticeni, Office of Monitoring and Enforcement, Room 501, Attn: Korea Spirits Dispute, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Rick Ruzicka, Office of Asia & the Pacific, (202) 395-4755; Francis James, Office of Monitoring and Enforcement, (202) 395-3582; or Rachel Shub, Associate General Counsel, (202) 395-7305.

SUPPLEMENTARY INFORMATION: On September 10, 1997, the United States

requested the establishment of a WTO dispute settlement panel to examine whether taxes on distilled spirits imposed by Korea are inconsistent with Korea's obligations under the GATT 1994. The WTO Dispute Settlement Body is likely to establish the panel no later than October 16, 1997. Under normal circumstances, the panel, which will hold its meetings in Geneva, Switzerland, would be expected to issue a report detailing its findings and recommendations within nine months after it is established.

Major Issues Raised by the United States and Legal Basis of Complaint

Korea assesses excise taxes at different rates on different types of distilled spirits. Under its general liquor tax law, Korea imposes a lower tax on soju, a traditional Korean distilled spirit, than the high taxes it applies to other distilled spirits such as whiskey, brandy, vodka, rum, gin and "ad-mixtures." This tax differential is made even more dramatic by the application of an Education Tax, which is higher when the liquor tax rates are higher. Soju is very similar to the distilled products produced by the United States and also is in direct competition in the market with them. The result of this tax rate differential is a tax burden on some U.S. distilled spirits that is over four times greater than the burden on soju (assuming the actual prices were the same). The United States claims that these taxes contravene the obligations of Korea under Article III:2 of the GATT 1994.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—