

WORLD TRADE ORGANIZATION

WT/DS323/5
G/L/724/Add.1
G/AG/GEN/67/Add.1
G/LIC/D/38/Add.1
27 January 2006

(06-0361)

Original: English

JAPAN – IMPORT QUOTAS ON DRIED LAVER AND SEASONED LAVER

Notification of Mutually Agreed Solution

The following communication, dated 23 January 2006, from the delegation of Korea and the delegation of Japan to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 3.6 of the DSU.

Korea and Japan wish to notify the Dispute Settlement Body in accordance with Article 3.6 of the DSU that they have reached a mutually agreed solution, elements of which are attached hereto, to the matter raised by Korea in document WT/DS323/1 dated 3 December 2004.

We would ask you to circulate this notification to the relevant Councils and Committees, as well as to the Dispute Settlement Body.

(signed)
Mr CHOI Hyuck
Ambassador
Permanent Representative
of the Republic of Korea

(signed)
Mr Ichiro FUJISAKI
Ambassador
Permanent Representative of Japan

ATTACHMENT

1. Product Coverage

The products covered by this mutually agreed solution are all the laver products (hereafter, the "Laver Products") classified under the HS Codes 1212 and 2106, as further described in Annex A hereto.

2. Annual Import Quota Amounts

- (a) An annual import quota will be allocated exclusively for Korean Laver Products in an amount (hereafter, the "Annual Import Quota Amount") which will not be less than 340 million sheets in 2006 and thereafter the Annual Import Quota Amount will be increased so that the Annual Import Quota Amount allocated for 2015 will be no less than 1.2 billion sheets.
- (b) Both sides will discuss to determine a conversion formula with respect to Laver Products that are not in sheet form pursuant to the consultation procedures in paragraph 9.

3. Sub-Quotas

- (a) Japan's import quota system with respect to Korean Laver Products will comprise the sub-quotas set forth in Annex B hereto.
- (b) User Quota: In the User Quota Notification [Hacchugendo Naiji sho], the amount of the User Quota exclusively allocated to applicable Korean Laver Products will be expressly stated.
- (c) Trading Company A Quota (provisional name):
 - A. In an annual import quota announcement, it will be expressly stated that all laver imported under the Trading Company A Quota must be exclusively applicable Korean Laver Products.
 - B. With respect to any past import record requirement for the Trading Company A Quota, no applicant will be disqualified except for those who have failed to achieve a quota use ratio of 80% or more of the allocated quota during the most recent two year period.
- (d) Other Laver Products (as defined in Annex A) of Korea may be imported under any of the sub-quotas, including the First-Come-First-Served Quota from 2007, in accordance with the arrangement based on the consultations pursuant to paragraph 9. In 2006, Other Laver Products of Korea may be imported under the First-Come-First-Served Quota.
- (e) Necessary arrangements will be maintained so as not to impose any maximum quota volume per applicant in allocating the Trading Company A Quota unless it is necessary due to excess demand for quota allocation.
- (f) With respect to the First-Come-First-Served Quota or in re-allocating any unutilized amounts of the User Quota pursuant to paragraph 7, if any amount of the quota remains unallocated due to the maximum quota volume per applicant notwithstanding existing demand, such maximum quota volume per applicant will be either increased or otherwise it will be ensured that all quotas are allocated to the extent that demand exists for such quotas.

4. Sub-Quota Allocations

Unless otherwise decided pursuant to paragraph 11(b), no more than 60% of the Annual Import Quota Amount will be allocated to the User Quota and the remaining portion will be allocated to the Trading Company A Quota.

5. Import Quota Announcement and Completion of Quota Allocation

The import quota announcement for 2006 will be made in February 2006 and quota allocation to applicants of the Trading Company A Quota will be completed within 2 months from the date of announcement. The timing of the import quota announcements from 2007 to 2015 will be decided by no later than 31 October 2006, so that the import quota announcements will be made earlier than that in 2006.

6. Timing of the Auction of the User Quota

Both sides will cooperate to promote an efficient auction process for the products traded under the User Quota for the laver products imported from Korea, through encouraging relevant organization(s) to hold auctions once or more a year. Further details of the auction process will be discussed by the relevant organizations of Korea and Japan.

7. Unutilized Amount of the User Quota for Korea

- (a) If more than 5% of the Annual Import Quota Amount allocated to the User Quota pursuant to Paragraph 4 above is not utilized, such unutilized portion will be re-allocated to any applicant wishing to import applicable Korean Laver Products as set forth in Annex C hereto in the same annual period on the earliest date(s) that the non-utilization of such portion can be determined.
- (b) The Japanese side will make its best efforts to ensure that the re-allocation pursuant to this paragraph is effective in facilitating quota use.

8. Effective Implementation

- (a) Both sides will take all necessary steps to fully and effectively implement the matters in this mutually agreed solution. No new measures that adversely affect, directly or indirectly, the market access for any of the Laver Products in Japan will be taken. Both sides will not take any action which has the direct or indirect purpose or effect of undermining or offsetting the basis of this mutually agreed solution.
- (b) Prior to the introduction of any formal or informal measures that affect, directly or indirectly, the market access for any of the Laver Products, both sides confirm that they will provide information, in a timely manner, on such measures.

9. Consultations

Both sides will hold consultations regularly once a year and will hold additional consultations, at the request of either side, to discuss matters relating to the implementation of the matters in this mutually agreed solution and other matters relating to improving the market access for the Laver Products. Such consultations will begin at the earliest possible date, but no later than 30 days from the date of the receipt of a request for consultations pursuant to this paragraph, unless otherwise decided.

10. Implementing Agency

As to the Japanese side, the matters in this mutually agreed solution will be implemented by the Fisheries Agency, the Ministry of Agriculture, Forestry and Fisheries of Japan.

11. Other Matters

- (a) This mutually agreed solution is without prejudice to the rights or obligations of either Korea or Japan including, without limitation, under the Agreement Establishing the World Trade Organization.
- (b) The matters in this mutually agreed solution may be rearranged, when necessary, by mutual consent based on the consultations set forth in paragraph 9.
- (c) Both sides will implement the matters in this mutually agreed solution, together with Annexes A, B and C hereto, upon notice to the DSB.

Annex A

Product Coverage

For purposes of this mutually agreed solution, Laver Products, as defined in paragraph 1, are categorized as follows:

- Dried Laver: All dried laver (hoshi nori) classified under 1212.20-1.
- Seasoned Laver Not Containing Sugar: All seasoned laver classified under 2106.90-2-(2)-E-(b).
- Other Laver Products: All Laver Products other than Dried Laver, Seasoned Laver Not Containing Sugar.

Annex B

Sub-Quotas under Japan's Import Quota System for Korean Laver Products

Trading Company A Quota (this naming is provisional, and can be renamed during the process of import quota announcement)

- Qualified importers: An applicant that has been allocated trading company quota under past laver Import Announcements, and that meets all of the following requirements:
 - (i) has a record of clearing laver imports through customs from Korea during the preceding one year period,
 - (ii) and has a record (quota use ratio) of clearing 80% or more of the allocated laver import quota through customs during the most recent two year period on an average basis, if allocated a trading company quota in the year before the last.
- All of the laver products listed in Annex A may be imported under the Trading Company A Quota from 2007.

User Quota

- The User Quota is allocated to applicants that receive purchase orders from customers that have received a notification of the maximum amount of orders ("User Quota Notification").
- All of the laver products listed in Annex A may be imported under the User Quota from 2007.

Annex C

Timetable for Reallocation of Unutilized Amount of the User Quota

Around February:

Annual Import Quota Announcement

Around March:

The Fisheries Agency is to issue the User Quota Notification (Hacchugendo Naiji sho) and to make it clear that "if purchase orders has not been placed until the specific date (as early as practicable within 6 months after the User Quota Notification), the unused amount of the Notification expires".

Around May:

The User Quota organization is to hold an auction of laver. The organization places the purchase orders of the laver, which are successfully bidden at the auction. Ministry of Economy, Trade and Industry (METI) is to provide import license according to the amount of the bidden laver. Actual customs clearance happens after June.

Around September or earlier:

Pursuant to Paragraph 7 of this mutually agreed solution, the Fisheries Agency will announce the reallocation as well as its application schedule and qualifications for the applicants.

Around October or earlier:

Application for the reallocation is open for and accepted from any applicants who meet the qualifications.

Around November or earlier:

The Fisheries Agency can reissue the User Quota Notification (Hacchugendo Naiji sho) to any applicants wishing to import applicable Korean Laver Products until the unused amount is fully used and METI will provide the import license. Once the import license is issued, the import of laver using the reissued User Quota Notification can begin.

With respect to the terms of validity for the import quota certificates and the import licenses granted on the basis of the certificates in this case, such terms will be the same terms as for the Trading Company A Quota or the First-Come-First-Served Quota.

The above schedule may be rearranged from 2007, when necessary, by mutual consent based on consultations set forth in Paragraph 9 of this mutually agreed solution.
