

The Republic of Korea

1 Bilateral trade relations

In 2006, the Republic of Korea was China's fifth largest trading partner. According to customs statistics released in China, the trade volume between China and ROK in 2006 hit US \$ 134.31 billion, up by 20.0%, among which China's exports to ROK were US \$ 44.53 billion, up by 26.8%, while China's imports from ROK were US \$ 89.78 billion, up by 16.9%, with a deficit of US \$ 45.25 billion on China. China mainly exported to ROK coking coal, anthracite, diode, transistor, inductance, maize, petroleum crude, Portland cement, natural ore, granite, semiconductor switch parts, circuit switches, printed circuits, single phase digital integrated circuits, iron or non alloy steel plate, etc. China's main imports from ROK included sulphuric acid, alternating current motors, petroleum asphalt, diode, transistor, sockets, inductance, single phase integrated circuits, benzoic diacid, printed circuits, integrated circuits and micro electronic parts, semiconductor devices, processed petroleum, etc.

According to the China's Ministry of Commerce (hereinafter referred to as MOFCOM), in 2006, Chinese funded non financial direct investment projects in ROK, which had either been approved by, or submitted relevant applications for approval of, the MOFCOM, amounted to US \$ 9.96 million. In 2006, Korean invested projects in China numbered 4,262 with the contracted amount hitting US \$ 12.32 billion and actually contributed US \$ 3.89 billion. By the end of 2006, the number of Korean direct investment projects in China had reached 43,130 and the amounts of the contracted investment and actual contribution stood at US \$ 82.64 billion and US \$ 35 billion respectively.

2 Changes in trade and investment regime

2.1 Trade administration regime and its development

2.1.1 Tariff system

The Customs Act serves as the basic regulation governing ROK's tariff system. The ROK's tariff policies are formulated by the Ministry of Finance and Economy and enforced by the Customs Department and its subordinate organizations.

ROK's import tariffs are classified into basic tariffs, temporary tariffs and elastic tariffs, etc. Temporary tariffs and elastic tariffs are regulated and imposed by the ROK government under different circumstances. ROK's elastic tariffs, comprised of anti dumping duties, adjustment tariffs, price equilibrium tariffs, are vital in regulating imports and exports as well as protecting its domestic related industries.

As of September 1, 2006, the Asian Pacific Trade Agreement (originally the Bangkok Agreement) was enforced by ROK. The current members of the agreement are six countries in Asia, including China and ROK. Members of the agreement were committed to mutual tariff reduction by applying general concession rates to all the members of the agreement and special concession rates to the least developed countries. According to the agreement, ROK implemented general recession measures on chemical products, iron and steel, metal, and so on. The scope of application of the preferential tariffs was expanded from previous 285 to 1,367 and the tariff levels will be lowered by 35.7% on average. The measures make 1367 10 digit tariff heading Chinese products subject to preferential tariffs.

2.2.2 Import administration

The Ministry of Commerce, Industry and Resources (MOCIE) works as the competent authority for trade and investment administration, responsible for the formulation and implementation of ROK trade and investment policies. The Import & Export Notice published by the Ministry of Commerce, Industry and Resources (MOCIE) from time to time imposes restrictions on the import of specific commodities temporarily. The import of special items specified in the Import & Export Notice requires import license application which shall be submitted to the related government bodies or the trade associations and approval by related authorities. In addition, special items defined by the MOCIE in its Annual Trade Plan require approval by the Minister.

2.2.3 Trade remedies

The Korea Trade Commission subordinate to the Ministry of Commerce, Industry and Resources is responsible for implementing trade remedies including anti dumping, countervailing and safeguard) measures. In light of the Customs Act), the Korea Trade Commission investigates unfair trade practices disrupting import and export and puts forward proposals for punishment, which is to be ruled by the Ministry of Finance and Economy.

2.2 Investment administration

In the wake of Asian financial crisis, full liberalization and incentive policies are applied to foreign investment.

1,029 sectors of 1,121 Korean sectors (based on the standard industry) are fully open to foreign investment. Besides 63 sectors not suitable for foreign investment such as administration, foreign affairs, and war industry, there are two sectors not officially liberalized including television broadcasting and radio broadcasting. 27 sectors are under investment restriction.

Related administration agencies implement the market access approval system over foreign direct investment for the purpose of capital flow and market access

administration. All relevant restrictions to foreign direct investment will be collected by the MOCIE and announced in the Comprehensive Notice of Foreign Investment each year.

The Foreign Investment Mid and long term Strategy issued by the Ministry of Commerce, Industry and Resources in October 2006 stipulated the scope of encouragement in the preferential policies for foreign investment was expanded from high technology and its related industries to less developed areas regardless of foreign investment sectors. In addition, foreign industries with their investments in the capital, if moving to the less developed areas, would enjoy related subsidies and financial support.

2.3 Administration system related to trade investment and its development

2.3.1 Foreign exchange control

The laws governing foreign transaction in ROK are classified into two categories: basic laws and related laws. The former include the Foreign Exchange Act, the Foreign Exchange Implementation Decree, and all types of foreign exchange control regulations while the latter include the Foreign Trade Act, the Foreign Investment Promotion Act, the ROK Banking Act, the Customs Act and the Internal Tax Act, etc. ROK's Ministry of Finance and Economy is responsible for the formulation, amendment and implementation of the foreign exchange policies in ROK.

In March 2006, to prevent the ROK won from continued appreciation and to keep the stability of the foreign exchange market, the ROK government decided to loosen foreign exchange control, lift the restrictions on overseas direct investment and overseas real estate purchase, and relax the requirements that outbound funds must be remitted within the stated time. Small and medium sized export enterprises which respond fairly weakly to the exchange rate fluctuations are exempt from the exchange fluctuation insurance limit of export insurance companies.

2.3.2 Visa administration

As of August 2006, ROK's Ministry of Law implemented the regulations of the amended Transit Control Act. According to the amended regulations, the foreigners qualified for business investment are granted residence visas with the term of validity extended from currently three years to five years, are allowed to apply for residence visas with the maximum term of validity of five years for one entry, and are exempted from service charges for changing residence qualifications or time limit.

2.4 Administration measures for specified products

The Draft of Food Sanitary Act Decree Amendments formulated by the ROK's Health Department On June 22, 2006 strengthened the requirements for sample preservation in official inspection and test labs, added the requirements for business people engaging in food to keep files, standardized the labeling of country of origin

for red meat sold in restaurants, and specified the scope for false labeling and misleading advertisements. The draft applies to such products as food, food additives, instruments and devices, packages and containers. It has not been defined when it will take effect.

On June 27, 2006, the ROK Health Department announced the formulation of the Draft of Health Food Act Decree Amendments, which added the qualification requirement for quality control managers of the manufacturing factories, amended the regulations for the Health Food Act, extended the scope of production to all procedures and lifted the compulsory requirements for all enterprises. The draft is applicable to health products. The regulation was approved and took effect in September 2006

In July 2006, to provide consumers with more information and comply with international standards, ROK's Food and Drug Administration Bureau proposed an amendment to food labeling standards. For instance, it required the nutrition labels to state the ingredients contained with standard unit gram per serving, the content of sugar, cholesterol, trans fat with more specific table. The amendment took effect in September 2006.

3Trade barriers

3.1Tariff and tariff administrative measures

The average level of tariff in ROK was under 8 percent in 2006, but the actual tariffs of some agricultural and industrial products are much higher than those in other industrialized countries. For instance, the weighted average of ROK's bound tariffs on all agricultural products is 52%.

3.1.1Adjustment Tariffs

An adjustment tariff lower than 100% is, in addition to the basic tariff, applied to the agricultural, forestry, animal and aquatic imports whose domestic counterparts are weak in competition or whose increase is likely to result in the disruption of domestic market or injure related domestic industries, and to those imports whose domestic counterparts are subject to provisional protection on such reasons as environmental protection, domestic consumers' interests and the balance of domestic industry development. The imports subject to the adjustment tariffs scheme and the related rates are published once every year and the imposition runs from January 1 till December 31.

In 2006, 17 kinds of products are subject to adjustment tariffs, with the average level at 37.4%. Compared with the level of 2005, the adjustment tariff on shrimp(frozen) is canceled and those on 8 kinds of products including live river bass, frozen cololmbis snira, frozen ray, frozen slatecodcroakers, salted shrimps and shrimp sauce, frozen squi, bean sauce pies and veneer board were cut down by 1%—7%. Among the 17

kinds of products subject to the adjustment tariffs, live eel, live river bass, live river slatecodcroakers, salted shrimps and shrimp sauce, tricholoma matsutake, Chinese vermicelli, bean sauce pies, mixed seasonings(including red pepper paste) are totally or mostly Chinese imports in which Chinese producers enjoy competitive advantages. The Chinese side hopes ROK will continue reducing the number of categories of products subject to adjustment tariffs and the related rates.

3.1.2 Tariff quotas

In the negotiations of the Uruguay Round, ROK was allowed to implement tariff quotas on such agricultural products as rice and corn. In 2006, ROK maintained tariff quotas on 63 major kinds of agricultural products. Some of the covered items are subject to an over quota tariff rates above 200%. For example, the rates of sesame, garlic, mung bean, date and green tea are 630%, 360%, 607.5%, 611.5% and 513.6% respectively. Most agricultural products in which China enjoys competitive advantages are subject to tariff quota administration by the ROK Government, so the over quota tariff rates have, in fact, impeded the export of related Chinese products to ROK.

3.1.3 Special safeguard duties on agricultural products

At the end of December 2006, ROK made slight adjustments on the coverage of products subject to Special Safeguard Duties on agricultural products in 2006 and the related tariff level, reduced the covered goods to 44 from 45 in 2005 and removed the special safeguard duties on potato powder and grains. The stipulations in the amendment took effect as of January 1, 2006. If the imports of 44 agricultural and forestry products such as mung bean, red bean, buckwheat, soybean, peanut, and ginseng exceed the certain quantity, the special safeguard duties that can reach 1,067% at maximum shall be imposed, and this measure shall remain valid for one year. In the meanwhile, according to the amendment, the benchmark import quantities of 19 categories of agricultural products such as buckwheat, wheat, and peanut were lowered, which meant that ROK government could impose special safeguard duties on agricultural products of fewer import quantity.

Among the 44 products subject to special safeguard duties, 21 are Chinese imports. In accordance with the amendment, 810% and 561% emergency tariffs are imposed on the imports of mung bean and red bean respectively, if their aggregate quantity exceeds 33,308 tons; 307% emergency tariffs on peanut if the imports exceed 2,542 tons; 297% to 1,005% emergency tariffs on the imports of 19 kinds of ginseng including Saengsam(unprocessed ginseng) and Red Ginseng and converted products if they exceed the import limit of 50 tons. According to ROK Customs statistics, Chinese imports of mung bean, red bean and peanut were heavily affected by this measure, reduced by 20% to 50% in 2006, compared with 2005. The Chinese side has expressed concern over the effect of the system on the trade of agricultural products between China and ROK.

3.1.4 Others

The ROK Customs usually adopts 'main ingredient' or 'import purpose or motive' criteria in deciding the tariff items applicable to 'blended products', namely those containing various ingredients. This practice frequently results in unreasonably high tariff rates applied to certain products. "Blended products" disadvantaged by this practice include potato flakes, soybean flakes.

3.2 Barriers to customs procedures

3.2.1 Selected inspection of agricultural products

As of July 2003, the ROK Customs conducts pre-clearance examination on selected agricultural products. The average rate of random inspection on selected imports is 3% to 5% only, but 20% on agricultural products and 100% on frozen chilli and mixed seasoning. The Chinese side believes this practice prolongs the clearance of related Chinese agricultural products and increases cost of trade.

3.2.2 Pre-clearance tariff examination

As of 2000 the ROK Customs conducts pre-clearance examination on selected agricultural products under the reason for preventing "duty evasion by low priced customs declaration". The ROK Customs further intensified its pre-clearance examination on 18 agricultural products to be imported into ROK such as sesame, perillaseed, ginger, dried red bean, dried mung bean, seasoned peanut, soybean for bean sprout, onion, barley, sweet potato starch, frozen chili, frozen garlic, pickled garlic, fresh(chilled) whole garlic, fresh(chilled) garlic grains, garlic temporarily marinated for storage, dried garlic, carrot, etc. The 18 products subject to ROK's pre-clearance tariff examination are mainly Chinese imports. Except for perillasee, frozen chili, carrot, frozen garlic, the other 14 products shall be subject to quotas.

The agricultural products subject to examination must receive price examination by the ROK Customs for the possibility of duty evasion. In the pre-clearance tariff examination, the Korean Customs evaluates the prices of products declared by importers by comparing the declared prices with the unit prices that the customs have constructed from their instant calculation. Importers requesting instant clearance are allowed to make delivery of goods before clearance and receive tariff examination afterwards on the condition that they are charged certain amount of cash deposit.

In 2006, unexpectedly, ROK changed the ways of tariff calculation and raised the benchmark price of the Korean customs, namely imposing tariffs on the appraised prices by the Korean government instead of invoice amount. In addition, the prices of small red beans defined by the Korean government at \$ 496 per ton, is much higher than the market price, which impeded the export of Chinese small red beans to ROK and subjected Chinese enterprises to great loss.

The pre-clearance tariff examination has prolonged the customs clearance for related Chinese agricultural imports, thereby impeding Chinese agricultural exports to ROK. The Chinese side has expressed concern over the transparency and implementation of the measure.

3.3 Technical barriers to trade

The Korean government requires approval before importation of many industrial products, such as cosmetics, medical devices, telecommunication equipment, computers, chemicals, etc. The practice covers too many products and poses necessary restrictions on normal international trade.

Since the second half of 2006, the Korean Customs has demanded that all Chinese glazed tiles imports with the measurements over 50mm*50mm should be labeled "Made in China" at the back of each glazed tile. It was the first time that the Korean government made such requirements on glazed tiles imports. According to some Chinese enterprises, the Korean government has made no stipulations on its domestic glazed tile producers. The Chinese side believes the regulation constitutes discrimination against Chinese glazed tiles exports, which is against the National Treatment principle of the WTO and hopes the Korean side will amend the regulation as soon as possible.

3.4 Sanitary and phytosanitary measures

The Chinese products significantly affected by ROK's inspection and quarantine measures include agricultural products, aquatic products, products of animal origin, food and food additives, medicines and medicine materials.

3.4.1 Agricultural products

ROK has conducted strict import inspection and quarantine measures on agricultural products. In accordance with the Grains and Cereals Control Act, the Infectious Animal Diseases Prevention Act, the Animal Act, the Livestock Processing Act, the Feed Control Act, the Fertilizer Control Act, the Plant Quarantine Act, the Law on Birds, Animals and Hunting, the Aquatic Products Act, and the Food Sanitation Act, ROK conducts various kinds of quarantine and sanitary inspections on the imports of agricultural products, animals and aquatic products. ROK does not acknowledge the inspection results of exporting countries and ROK's sampling and inspection procedures are complicated. ROK requires further inspection on foodstuff of the same category imported with containers of different measurements, and residual tests for pesticide residues in agricultural and animal drugs in the processing place of agricultural imports, for which every importer has to pay about \$ 500. However, the ROK government only requires sample inspection of its domestic agricultural products and bears the inspections fee itself. This practice constitutes discrimination against imports of Chinese agricultural products. The Chinese side has expressed concern over it.

In accordance with related Korean laws, fresh fruits are subject to the risk evaluation on plant diseases and pests by Korean inspection and quarantine agencies. The evaluation process will usually take years to complete. Currently, Chinese fresh fruits are not importable to ROK. In October, 2003, Chinese quarantine departments submitted the application for the risk evaluation on plant diseases and pests risks on cherry and longan. However, the import of these fresh fruits has not been approved by the Korean side. As at present China has basically completed the evaluation on plant diseases and pests risks, the Chinese side hopes the Korean side will speed the evaluation process, making the export of Chinese cherry and longan a fact as soon as possible, and initiates the risk evaluation on Chinese litchi and longan.

3.4.2 Chinese traditional medicine materials

3.4.2.1 Pesticide residues and residual limits of heavy metal

In April, 2006, Korean Food and Drug Administration(KFDA) promulgated Amendment to the Recommendation on the Limits of Pesticide Residues/Heavy Metals in Materials for Traditional Chinese Medicines and Related Testing Methods.

The Amendment not only includes new items for testing pesticide residues and adjusts the maximal residual limits but also establishes the maximal residual limits for heavy metal content in the materials for traditional Chinese medicines as follows: the maximal content for plant medicines: lead(Pb) 5mg/kg; arsenic(As) 3mg/kg; mercury(Hg) 0.2mg/kg, and cadmium(Cd) 0.3mg/kg; for pilose antler: arsenic 3mg/Kg. The aggregate residue limit of heavy metal in patent medicine or preparation with herbal medicines as the main ingredients(exclusive of preparation containing mineral medicine material) must be lower than 30mg/kg.

By amending the notice, ROK aimed at standardizing and improving the quality of the traditional Chinese medicines imports and reestablishing the reputation of the Korean doctors and machines. The Chinese side believes over 70% of raw materials in the Korean medicines rely on Chinese imports, and the amendment of above standards has raised the export threshold of and has a negative effect on Chinese related products to ROK. The Chinese side expresses concern over this issue and hopes the Korean side can provide solid scientific evidence for the above standards.)

3.4.3 Aquatic products

The ROK government conducts “clearance after precise inspection” on some Chinese aquatic products to ROK, asserting the aquatic products are not up to the sanitary standards. In January 2005, the Korean Aquatic Products Inspection Bureau declared to increase the number of products subject to “clearance after precise inspection” in order to ban illegal marketing and improve sanitary safety of food. At present, the measure “clearance after precise inspection” applies to live fish, frozen food, dried food and pickled food.

Currently, special import regulation is administered on 6 aquatic products, namely scallop, dried shrimp, eel, American red snapper, perch, and fugu rubripes. Chinese companies exporting above mentioned products are required to receive the precision inspection from Korean quarantine authorities at least once a month, and should any inconformity be found in the case of one company, all other companies exporting the same products to ROK shall be required to receive the precision inspection.

This practice, usually lasting for 3—4 days, greatly prolonged time needed for customs clearance, thus reducing the fishes survival rate and hampering Chinese export of live fishes to ROK. The Chinese side has expressed much concern over it.

3.4.4 Animal products

3.4.4.1 Import quarantine recognition system

This system is applied to all imported animal products. According to the system, exporting countries are required to make application and submit relevant documents on its animal diseases, if any, to be evaluated and endorsed by competent Korean authorities. Non OIE member countries shall be subjected to on site inspections and investigations by competent Korean authorities and are able to export related products after a bilateral quarantine agreement is signed. Claiming that China is not a member country of OIE and is affected by mouth feet disease, Korean authorities have banned the import of artiodactylous products produced in the whole territory of China mainland.

Furthermore, according to the requirements of Sanitary Conditions for Import of Coarse Fodder formulated by ROK's Ministry of Agriculture and Forestry, countries that are banned to export artiodactylous animals and related products to ROK are automatically not included on the list of countries free to export coarse fodder to ROK. Subsequently, Chinese coarse fodder exporters have to accept one by one quarantine recognition by Korean authorities before being allowed to export this product to ROK.

3.4.4.2 Meat inspection

In the second half year of 2003, ROK prohibited the import of poultry meat from China, for the reason of outbreak of avian flu in China. Through the Chinese side's active negotiation with ROK, in the second half of 2004, ROK began to allow the import of Chinese heat treated poultry meat and endorsed 11 Chinese heat treated poultry production enterprises. However, ROK insisted on rigid inspection on every heat treated poultry product, which retarded customs clearance, increased the storage expenses and costs and impeded export of Chinese poultry meat to ROK.

The outbreak of avian flu in some of regions in China has been under control. The

Chinese side hopes the Korean side resumes the import of Chinese frozen poultry meat as soon as possible in light of “principle of Regionalization” under the WTO SPS Agreement. The Chinese side also hopes ROK will simplify the formalities of recognition inspection on the heat treated poultry meat enterprises recommended by the Chinese side and postpone the recognition for the qualified enterprises when the recognition expires.

In addition, the Korean quarantine departments refused to inspect the exports of some enterprises on the pretext that the suppliers of the materials used by Chinese enterprises in processing were not approved by the Korean side. The subsequent rejection by Korean importers has subjected Chinese exporters to great loss.

3.4.5 Regionalization of epidemic infected area

As far as regionalization of epidemic area is concerned, the total territory of China mainland has always been regarded as a whole region by ROK, which means if an epidemic or a pest forbidden to enter the Korean territory is discovered in products originating from a region of China, ROK will accordingly ban the import of products of the same kind from other regions on China mainland.

The Chinese side believes ROK's above practice is against “principle of regionalization of epidemic areas” under the WTO SPS Agreement and hopes the Korean side makes adjustments of the practice as soon as possible to avoid unnecessary adverse impact on the normal trade in animal products between China and ROK.

3.5 Trade remedies

3.5.1 Anti dumping measures

Up to the end of 2006, ROK had initiated 23 antidumping investigations on Chinese exports, one of which was initiated in 2006. The antidumping duties are imposed on 10 Chinese exports: disposable lighter, alkalali battery, silicon manganese alloy, printing paper, sodium dithionite, choline oxide, and titanium dioxide, glazed tiles, extension processed long staple polyester silk, and polyvinyl alcohol.

In June 2005, Korean Trade Commission conducted anti dumping investigations on Chinese floor or wall tiles. Nine Chinese ceramics enterprises were subjected to sample inspection. In the recent anti dumping investigation launched by ROK, the total amount of the involved tiles is valued at US \$ 58.66 million. In April 2006, Korean Trade Commission made the final adjudication by imposing anti dumping duties 2.76% to 29.41% on nine Chinese enterprises involved in the case.

In November 2005, Korean Trade Commission conduct anti dumping investigations on extension processed long staple polyester silk of Chinese origin. In October 2006, Korean Trade Commission made the final adjudication by imposing anti

dumping duties 0% to 8.69% on Chinese enterprises.

In January 2006, Korean enterprises made an application to the Korean government for anti dumping investigations on polyvinyl alcohol of American origin, Chinese origin or Singapore origin. In June 2006, Korean Trade Commission made a preliminary ruling that China made tile exports constituted dumping against Korean exports. On December 12, 2006, Korean Trade Commission made the final adjudication by imposing anti dumping duties ranging from 11.11% to 35.17% on Chinese enterprises.

3.5.2 Market economy status

In November 2005, ROK acknowledged the market economy status of China. In 2006, ROK amended the Dumping Investigation Guiding Principles. It means in the future anti dumping investigations Chinese enterprises will enjoy the same treatment as the enterprises in other market economy countries, which has been favorably received by the Chinese side.

3.5.3 Special safeguards and special restrictions on textiles

So far, ROK has not proposed investigations on special safeguards against or special restrictions on Chinese textiles. The Chinese side hopes, after acknowledging China's market economy status, the Korean side will waive the rights to conduct such special safeguard investigations as stipulated in Article 16 of the Protocol on China's Accession to the WTO and such investigations as specified in Paragraph 242 of the Working Group's Report on China's WTO Accession, so as to facilitate the further development of economic and trade relations between the two countries.

3.6 State trade

Korean Agricultural & Fishery Marketing Corporation (AFMC) is responsible for conducting state trade on parts of agricultural and aquatic products which are subject to quantity restrictions in the Uruguay Round. In the public bidding for import of agricultural products under the government procurement program, Korean Agricultural & Fishery Marketing Corporation (AFMC) adopts unduly stringent standards for public bidding, and uses highly unilateral contracts, which is inconsistent with accepted trade practices. For example, bidding companies are required to render a guarantee bond equivalent to 10% of the contract value before bidding, and this bond may be seized, partially or wholly, by the Korean authorities on various reasons. In addition, it is stipulated in the public bidding import contract that if the Korean side deems prices of agricultural products lower than prices required, it may refuse to give shipping instructions. This provision is significantly arbitrary, and may directly threaten the reimbursement of the bond and the execution of the contract. After the arrival of the imports at Korean ports, apart from the inspections to be conducted according to the relevant Korean laws and regulations, Korean Agricultural & Fishery Marketing Corporation may carry out quality or

quantity inspection by itself, and if the result of either inspection proves not consistent, the involved goods will be rejected, even though approved at the port of shipment. ROK's practices of extending the rights of the bidding administration and Korean industries not only go beyond the rights and obligations stipulated in usual international trade laws and practices, but also increase risks sustained by Chinese exporters in participating in ROK's public bidding for import of agricultural products under government procurement program, and pose unreasonably heavy burden on Chinese exporters. The Chinese side hopes that ROK will further improve bidding methods and follow international customary practices by recognizing the result of inspection conducted by exporting countries and conducting re-inspection in importing countries.

According to some Chinese enterprises, Chinese enterprises conducted inspections as required by ROK and made shipment and delivery after winning the bidding for sesame in 2006. However, Korean Agricultural & Fishery Marketing Corporation didn't conduct timely sample inspections and didn't inform the Chinese enterprises that it disapproved some of goods inspected and claimed refund until over 20 days after the arrival of the goods. The disapproval of the goods was to a great extent due to the fact that AFMC failed to conduct prompt sample inspection upon arrival of the goods as promised so that some of the sesame went bad as the containers had been exposed to high temperature and open air for a long time. The above practices subjected the Chinese enterprises to great losses.

3.7 Barriers to trade in services

3.7.1 Financial services

ROK applies different standards to the supervision over foreign banks' branches in ROK and Korean local banks. It requires that, if a foreign bank wishes to establish a new branch in ROK, all the procedures required for the establishment of the first branch in ROK be completed and that relevant information be submitted. No such requirements are needed in case of the application for establishment of new branches submitted by a domestic bank. Besides, some Korean measures are not favorable for the business development of Chinese banks in ROK, such as treating foreign banks' branches as their subsidiaries with regard to the business scope and capitals of foreign banks, and imposing capital limits on the supplementary institutions of foreign banks' branches. ROK's restrictions on the size of loans to individual borrowers and of credits and large loans to groups as well as on the size of inter-bank lending and borrowing have limited the financing ability and asset sizes of Chinese-funded banks in ROK.

According to some Chinese banks, the expenses involved for the access to the Won Settlement System charged on foreign banks are dearly high.

3.7.2 Legal services

Currently foreigners are not allowed to set up law offices or conduct legal consultancy in ROK. The existing laws forbid Korean law offices to employ foreign lawyers or come into partnership with foreign offices. Foreign lawyers can only act as legal advisers at Korean law offices and are not allowed to practice as lawyers.

3.8 Other barriers

Koreans are expected to improve the transparency in formulating and implementing their laws and regulations. Relevant Korean authorities often make internal policies, namely Guidelines, regarding inspection and quarantine of imported products, in particular, agricultural products and aquatic products, but these “guidelines” are seldom made public. The implementation of laws and regulations by Korean officials seem so discretionary that the exporters involved tend to feel at a loss, thus bringing about much uncertainty to their business operation.

4 Barriers to investment

4.1 Barriers to investment operation

4.1.1 Dual payment of unemployment insurance

In accordance with Korean laws, enterprises must pay employment insurance (namely, unemployment insurance) for their employees. The Korean side requires Chinese funded enterprises pay insurance for Chinese employees as well as Korean employees. However, Chinese employees who are mostly provisionally dispatched overseas have paid required unemployment insurance in China. The dual payment of unemployment insurance will increase financial burden on Chinese funded enterprises in ROK while Chinese employees are unable to enjoy the benefits from employment insurance paid in ROK. The Chinese side hopes to reach an agreement on this matter with ROK as early as possible to avoid increasing the burden on Chinese funded enterprises in ROK.

4.1.2 Reimbursement of national annuity

In accordance with Korean laws, foreign enterprises in ROK must pay national annuity (namely, endowment insurance) for all employees. As is true of unemployment insurance, Chinese employees in Chinese funded enterprises have paid endowment insurance in China. Repayment of national annuity amounts to dual payment. To settle this problem, the Korean and Chinese sides signed PRC and ROK Provisional Measures Agreement on Mutual Exemption from Endowment Insurance Payment, which took effect on May 23, 2003. In accordance with the agreement, Chinese employees working for Chinese funded companies, offices and other organizations as well as self employed business persons are exempt from paying national annuity after submitting relevant documents and the Korean side ought to reimburse the national annuity paid by Chinese employees before May 23, 2003. So far, the Korean side has reimbursed a portion of annuity paid by Chinese funded enterprises

during the period from January 2003 to May 23, 2003, but failed to reimburse the national annuity paid before 2003. The Chinese side hopes the Korean side will reimburse the national annuity paid by Chinese funded enterprises before 2003 as soon as possible in accordance with the agreement.