

KOREA - IMPORT BANS, AND TESTING AND CERTIFICATION REQUIREMENTS FOR RADIONUCLIDES

Report of the Appellate Body WT/DS495/AB/R and Add.1

*Adopted by the Dispute Settlement Body
 on 26 April 2019*

Korea, Appellant/Appellee
Japan, Other Appellant/Appellee
Brazil, Third Participant
Canada, Third Participant
China, Third Participant
European Union, Third Participant
Guatemala, Third Participant
India, Third Participant
New Zealand, Third Participant
Norway, Third Participant
Russia, Third Participant
Chinese Taipei, Third Participant
United States, Third Participant

Appellate Body Division:
 Servansing, Presiding Member
 Bhatia, Member
 Graham, Member

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* The Notices of Appeal and Other Appeal and the executive summaries of written submissions contained in this Addendum are attached as they were received from the participants and third participants. The content has not been revised or edited by the Appellate Body, except that paragraph and footnote numbers that did not start at one in the original may have been re-numbered to do so, and the text may have been formatted in order to adhere to WTO style. The executive summaries do not serve as substitutes for the submissions of the participants and third participants in the Appellate Body's examination of the appeal.

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ABBREVIATIONS USED IN THIS REPORT

Abbreviation	Description
ALARA	as low as reasonably achievable
ALOP	appropriate level of protection
Bq	becquerel
Codex	Codex Alimentarius Commission
DSB	Dispute Settlement Body
DSU	Understanding on Rules and Procedures Governing the Settlement of Disputes
FDNPP	Fukushima Dai-ichi Nuclear Power Plant
GATS	General Agreement on Trade in Services
GATT 1994	General Agreement on Tariffs and Trade 1994
HS	Harmonized System
ICRP	International Commission on Radiological Protection
KFDA	Korea Food and Drug Administration
Kg	kilogram
LNT	linear-no-threshold
MFDS	Ministry of Food and Drug Safety
MIFAFF	Ministry for Food, Agriculture, Forestry and Fisheries of Korea (original name); Ministry of Agriculture, Food and Rural Affairs of Korea (since 2013)
mSv	millisievert
OIE	Office International des Epizooties (original name); World Organisation for Animal Health (since 2003)
Panel Report	Korea – Import Bans, and Testing and Certification Requirements for Radionuclides
SPS Agreement	Agreement on the Application of Sanitary and Phytosanitary Measures
Working Procedures	Working Procedures for Appellate Review
WTO	World Trade Organization

PANEL EXHIBITS CITED IN THIS REPORT

Exhibit Number	Short Title	Description
Panel Exhibit JPN-3.b	PMO blanket import ban and additional testing requirements press release	Korea Prime Minister's Office, Press Release, "Government Bans Import of All Fishery Products from 8 ken near Fukushima" (6 September 2013)
Panel Exhibit JPN-4.b		Korea Office for Government Policy Coordination, Ministry of Food and Drug Safety, Ministry of Oceans and Fisheries, and Nuclear Safety and Security Commission, "Q&A on Radioactivity Safety Management of Fishery Products Imported from Japan" (September 2013)
Panel Exhibits JPN-55.b (revised) and KOR-72 (revised)	KFDA 14 April 2011 press release	Korea Food and Drug Administration, Press Release, "Status of KFDA's Response and Management Measures Regarding the Japanese Nuclear Crisis (5)" / "KFDA's Response to the Fukushima Nuclear Power Plant Accident and Management Status" (14 April 2011)
Panel Exhibit JPN-75.b	MFDS 2013 blanket import ban and additional testing requirements notice	Korea Ministry of Food and Drug Safety, "Notice of Temporary Special Measure for Safety for Food Imported from Japan" (6 September 2013)
Panel Exhibit JPN-76.b		Korea Ministry of Food, Agriculture, Forestry and Fisheries, Press Release, "Temporary Import Suspension on Cod from Miyagi-ken and Iwate-ken, Japan" (3 May 2012)
Panel Exhibit JPN-77.b		Korea Ministry of Food, Agriculture, Forestry and Fisheries, Press Release, "Temporary Import Suspension on 35 Fishery Products, including Yellowfish from Fukushima-ken, Japan" (26 June 2012)
Panel Exhibit JPN-78.b		Korea Ministry of Food, Agriculture, Forestry and Fisheries, Press Release, "Temporary Import Suspension on Cod from Aomori-ken, Japan" (29 August 2012)
Panel Exhibit KOR-140		European ALARA Network, Newsletter 31: "Development and dissemination of ALARA culture" (11 July 2016)

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CASES CITED IN THIS REPORT

Short Title	Full Case Title and Citation
<i>Argentina – Financial Services</i>	Appellate Body Report, <i>Argentina – Measures Relating to Trade in Goods and Services</i> , WT/DS453/AB/R and Add.1, adopted 9 May 2016, DSR 2016:II, p. 431
<i>Argentina – Import Measures</i>	Appellate Body Reports, <i>Argentina – Measures Affecting the Importation of Goods</i> , WT/DS438/AB/R / WT/DS444/AB/R / WT/DS445/AB/R, adopted 26 January 2015, DSR 2015:II, p. 579
<i>Argentina – Import Measures</i>	Panel Reports, <i>Argentina – Measures Affecting the Importation of Goods</i> , WT/DS438/R and Add.1 / WT/DS444/R and Add.1 / WT/DS445/R and Add.1, adopted 26 January 2015, as modified (WT/DS438/R) and upheld (WT/DS444/R / WT/DS445/R) by Appellate Body Reports WT/DS438/AB/R / WT/DS444/AB/R / WT/DS445/AB/R, DSR 2015:II, p. 783
<i>Australia – Apples</i>	Appellate Body Report, <i>Australia – Measures Affecting the Importation of Apples from New Zealand</i> , WT/DS367/AB/R, adopted 17 December 2010, DSR 2010:V, p. 2175
<i>Australia – Salmon</i>	Appellate Body Report, <i>Australia – Measures Affecting Importation of Salmon</i> , WT/DS18/AB/R, adopted 6 November 1998, DSR 1998:VIII, p. 3327
<i>Brazil – Retreaded Tyres</i>	Appellate Body Report, <i>Brazil – Measures Affecting Imports of Retreaded Tyres</i> , WT/DS332/AB/R, adopted 17 December 2007, DSR 2007:IV, p. 1527
<i>Brazil – Taxation</i>	Panel Reports, <i>Brazil – Certain Measures Concerning Taxation and Charges</i> , WT/DS472/R, Add.1 and Corr.1 / WT/DS497/R, Add.1 and Corr.1, adopted 11 January 2019, as modified by Appellate Body Reports WT/DS472/AB/R / WT/DS497/AB/R
<i>Canada – Continued Suspension</i>	Appellate Body Report, <i>Canada – Continued Suspension of Obligations in the EC – Hormones Dispute</i> , WT/DS321/AB/R, adopted 14 November 2008, DSR 2008:XIV, p. 5373
<i>Chile – Price Band System</i>	Appellate Body Report, <i>Chile – Price Band System and Safeguard Measures Relating to Certain Agricultural Products</i> , WT/DS207/AB/R, adopted 23 October 2002, DSR 2002:VIII, p. 3045 (Corr.1, DSR 2006:XII, p. 5473)
<i>China – Publications and Audiovisual Products</i>	Panel Report, <i>China – Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products</i> , WT/DS363/R and Corr.1, adopted 19 January 2010, as modified by Appellate Body Report WT/DS363/AB/R, DSR 2010:II, p. 261
<i>China – Raw Materials</i>	Appellate Body Reports, <i>China – Measures Related to the Exportation of Various Raw Materials</i> , WT/DS394/AB/R / WT/DS395/AB/R / WT/DS398/AB/R, adopted 22 February 2012, DSR 2012:VII, p. 3295

Short Title	Full Case Title and Citation
<i>EC – Approval and Marketing of Biotech Products</i>	Panel Reports, <i>European Communities – Measures Affecting the Approval and Marketing of Biotech Products</i> , WT/DS291/R, Add.1 to Add.9 and Corr.1 / WT/DS292/R, Add.1 to Add.9 and Corr.1 / WT/DS293/R, Add.1 to Add.9 and Corr.1, adopted 21 November 2006, DSR 2006:III, p. 847
<i>EC – Asbestos</i>	Appellate Body Report, <i>European Communities – Measures Affecting Asbestos and Asbestos-Containing Products</i> , WT/DS135/AB/R, adopted 5 April 2001, DSR 2001:VII, p. 3243
<i>EC – Bed Linen (Article 21.5 – India)</i>	Appellate Body Report, <i>European Communities – Anti-Dumping Duties on Imports of Cotton-Type Bed Linen from India – Recourse to Article 21.5 of the DSU by India</i> , WT/DS141/AB/RW, adopted 24 April 2003, DSR 2003:III, p. 965
<i>EC – Hormones</i>	Appellate Body Report, <i>European Communities – Measures Concerning Meat and Meat Products (Hormones)</i> , WT/DS26/AB/R, WT/DS48/AB/R, adopted 13 February 1998, DSR 1998:I, p. 135
<i>EC – Sardines</i>	Appellate Body Report, <i>European Communities – Trade Description of Sardines</i> , WT/DS231/AB/R, adopted 23 October 2002, DSR 2002:VIII, p. 3359
<i>EC – Seal Products</i>	Appellate Body Reports, <i>European Communities – Measures Prohibiting the Importation and Marketing of Seal Products</i> , WT/DS400/AB/R / WT/DS401/AB/R, adopted 18 June 2014, DSR 2014:I, p. 7
<i>EC □ Selected Customs Matters</i>	Appellate Body Report, <i>European Communities – Selected Customs Matters</i> , WT/DS315/AB/R, adopted 11 December 2006, DSR 2006:IX, p. 3791
<i>EC – Tube or Pipe Fittings</i>	Appellate Body Report, <i>European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil</i> , WT/DS219/AB/R, adopted 18 August 2003, DSR 2003:VI, p. 2613
<i>EC and certain member States – Large Civil Aircraft</i>	Appellate Body Report, <i>European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft</i> , WT/DS316/AB/R, adopted 1 June 2011, DSR 2011:I, p. 7
<i>Guatemala – Cement I</i>	Appellate Body Report, <i>Guatemala – Anti-Dumping Investigation Regarding Portland Cement from Mexico</i> , WT/DS60/AB/R, adopted 25 November 1998, DSR 1998:IX, p. 3767
<i>India – Agricultural Products</i>	Appellate Body Report, <i>India – Measures Concerning the Importation of Certain Agricultural Products</i> , WT/DS430/AB/R, adopted 19 June 2015, DSR 2015:V, p. 2459
<i>Indonesia – Autos</i>	Panel Report, <i>Indonesia – Certain Measures Affecting the Automobile Industry</i> , WT/DS54/R, WT/DS55/R, WT/DS59/R, WT/DS64/R, Corr.1 and Corr.2, adopted 23 July 1998, and Corr.3 and Corr.4, DSR 1998:VI, p. 2201
<i>Indonesia – Import Licensing Regimes</i>	Appellate Body Report, <i>Indonesia – Importation of Horticultural Products, Animals and Animal Products</i> , WT/DS477/AB/R, WT/DS478/AB/R, and Add.1, adopted 22 November 2017, DSR 2017:VII, p. 3037

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<i>Japan – Agricultural Products II</i>	Appellate Body Report, <i>Japan – Measures Affecting Agricultural Products</i> , WT/DS76/AB/R, adopted 19 March 1999, DSR 1999:I, p. 277
<i>Japan – Alcoholic Beverages II</i>	Appellate Body Report, <i>Japan – Taxes on Alcoholic Beverages</i> , WT/DS8/AB/R, WT/DS10/AB/R, WT/DS11/AB/R, adopted 1 November 1996, DSR 1996:I, p. 97
<i>Japan – Apples</i>	Appellate Body Report, <i>Japan – Measures Affecting the Importation of Apples</i> , WT/DS245/AB/R, adopted 10 December 2003, DSR 2003:IX, p. 4391
<i>Korea – Alcoholic Beverages</i>	Appellate Body Report, <i>Korea – Taxes on Alcoholic Beverages</i> , WT/DS75/AB/R, WT/DS84/AB/R, adopted 17 February 1999, DSR 1999:I, p. 3
<i>Korea – Dairy</i>	Appellate Body Report, <i>Korea – Definitive Safeguard Measure on Imports of Certain Dairy Products</i> , WT/DS98/AB/R, adopted 12 January 2000, DSR 2000:I, p. 3
<i>Korea – Radionuclides</i>	Panel Report, <i>Korea – Import Bans, and Testing and Certification Requirements for Radionuclides</i> , WT/DS495/R and Add.1, circulated to WTO Members 22 February 2018
<i>Mexico – Corn Syrup (Article 21.5 – US)</i>	Appellate Body Report, <i>Mexico – Anti-Dumping Investigation of High Fructose Corn Syrup (HFCS) from the United States – Recourse to Article 21.5 of the DSU by the United States</i> , WT/DS132/AB/RW, adopted 21 November 2001, DSR 2001:XIII, p. 6675
<i>Russia – Pigs (EU)</i>	Panel Report, <i>Russian Federation – Measures on the Importation of Live Pigs, Pork and Other Pig Products from the European Union</i> , WT/DS475/R and Add.1, adopted 21 March 2017, as modified by Appellate Body Report WT/DS475/AB/R, DSR 2017:II, p. 361
<i>US – Animals</i>	Panel Report, <i>United States – Measures Affecting the Importation of Animals, Meat and Other Animal Products from Argentina</i> , WT/DS447/R and Add.1, adopted 31 August 2015, DSR 2015:VIII, p. 4085
<i>US – Carbon Steel</i>	Appellate Body Report, <i>United States – Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany</i> , WT/DS213/AB/R and Corr.1, adopted 19 December 2002, DSR 2002:IX, p. 3779
<i>US – Continued Suspension</i>	Appellate Body Report, <i>United States – Continued Suspension of Obligations in the EC – Hormones Dispute</i> , WT/DS320/AB/R, adopted 14 November 2008, DSR 2008:X, p. 3507
<i>US – Continued Zeroing</i>	Appellate Body Report, <i>United States – Continued Existence and Application of Zeroing Methodology</i> , WT/DS350/AB/R, adopted 19 February 2009, DSR 2009:III, p. 1291
<i>US – Countervailing and Anti-Dumping Measures (China)</i>	Appellate Body Report, <i>United States – Countervailing and Anti-Dumping Measures on Certain Products from China</i> , WT/DS449/AB/R and Corr.1, adopted 22 July 2014, DSR 2014:VIII, p. 3027
<i>US – Countervailing Measures (China)</i>	Appellate Body Report, <i>United States – Countervailing Duty Measures on Certain Products from China</i> , WT/DS437/AB/R, adopted 16 January 2015, DSR 2015:1, p. 7