On January 10, 2013, the United States requested consultations with the Government of Indonesia ("Indonesia") pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), Article 19 of the *Agreement on Agriculture* ("Agriculture Agreement"), and Article 6 of the *Agreement on Import Licensing Procedures* ("Import Licensing Agreement"), concerning certain measures imposed by Indonesia on the importation of horticultural products, animals, and animal products.[1] The United States held consultations with Indonesia on February 21 and 22, 2013. Those consultations unfortunately did not resolve the dispute.

I. IMPORT LICENSING REGIME FOR HORTICULTURAL PRODUCTS

Indonesia imposes a non-automatic import licensing regime for horticultural products pursuant to which an importer must complete multiple steps prior to importing a horticultural product into Indonesia. These steps include, first, an importer must obtain a Horticultural Product Import Recommendation ("RIPH")[2] certificate from the Ministry of Agriculture. When issuing the RIPH certificate, the Ministry of Agriculture considers factors such as production and availability of similar products domestically, domestic consumption of the product, and potential of the imported product to distort the market. Second, an importer must apply to receive a designation as a Producer Importer of Horticultural Products or Registered Importer of Horticultural Products from the Ministry of Trade. Third, for each imported product, the importer must apply to the Minister of Trade for import license by submitting the RIPH certificate and the designation.

The United States understands that the means through which Indonesia has maintained this licensing regime include:

- Law of the Republic of Indonesia Number 13 of Year 2010 Concerning Horticulture ("Law 13");
- Regulation of the Minister of Agriculture Number 60/Permentan/OT.140/9/2012 Concerning Recommendation on the Importation of Horticultural Products ("MOA Regulation 60");
- Regulation of the Minister of Trade Number 30/M-DAG/PER/5/2012 Regarding Provisions on Import of Horticultural Products ("MOT Regulation 30");

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[1] WT/DS455/1.
[2] *Rekomendasi Impor Produk Hortikultura*.

- Regulation of the Minister of Trade Number 60/M-DAG/PER/9/2012 Regarding Second Amendment of Regulation of the Minister of Trade Number 30/M-DAG/PER/5/2012 Regarding Provisions on Import of Horticultural Products ("MOT Regulation 60");

as well as any amendments, replacements, related measures, and implementing measures to date.

The United States considers that these measures are inconsistent with Indonesia's obligations under the following provisions of the GATT 1994, the Agriculture Agreement, and the Import Licensing Agreement:

- Article X:3(a) of the GATT 1994, because Indonesia does not administer the import licensing regime in a uniform, impartial, or reasonable manner.

- Article XI:1 of the GATT 1994, because the import licensing regime constitutes a prohibition or restriction on imports, other than in the form of duties, taxes, or other charges.

- Article 4.2 of the Agriculture Agreement, because the import licensing regime constitutes "measures of the kind which have been required to be converted into ordinary customs duties" which Members may not maintain, resort to or revert to under that Agreement.

- Article 3.2 of the Import Licensing Agreement, because the import licensing regime includes non-automatic import licensing procedures that have trade-restrictive or -distortive effects on imports additional to those caused by the imposition of any restriction that these requirements purport to implement; because the non-automatic import licensing procedures are broader in scope and duration than any measure they are used to implement; and because these procedures are more administratively burdensome than absolutely necessary to administer any such measure.

- Article 3.3 of the Import Licensing Agreement, because Indonesia has not published sufficient information for other Members and traders to know the basis for granting and/or allocating licenses.

II. IMPORT LICENSING REGIME AND QUOTAS FOR ANIMALS AND ANIMAL PRODUCTS

Indonesia imposes a non-automatic import license regime and quotas for animals and animal products pursuant to which an importer must complete multiple steps prior to importing an animal or animal product into Indonesia. These steps include, first, importers must receive an

Import Approval Recommendation ("RPP")[3] from the Ministry of Agriculture to import animals or animal products. After receiving the RPP, the importer must then apply for an import license with the Ministry of Trade. The Ministry of Trade only allows the importation of the product if, among other factors, domestic production and supply of the product do not meet "demand for public consumption at reasonable price."[4]

Indonesia's government sets the quotas for animals and animal products twice a year. The Ministry of Agriculture allocates the quotas, specifying the quantity of each animal and animal product allocated to each importer.

The United States understands that the means through which Indonesia has maintained these measures include:

- Law of the Republic of Indonesia Number 18/2009 on Animal Husbandry and Animal Health ("Law 18");

- Regulation of the Minister of Agriculture Number 50/Permentan/OT.140/9/2011 Concerning Recommendation for Approval on Import of Carcasses, Meats, Edible Offals and/or Processed Products Thereof to Indonesia Territory ("MOA Regulation 50");

- Regulation of the Minister of Trade Number 24/M-DAG/PER/9/2011 Concerning Provisions on the Import and Export of Animal and Animal Product ("MOT Regulation 24");

as well as any amendments, replacements, related measures, and implementing measures to date.

The United States considers that these measures are inconsistent with Indonesia's obligations under the following provisions of the GATT 1994, the Agriculture Agreement, and the Import Licensing Agreement:

- Article X:3(a) of the GATT 1994, because Indonesia does not administer the import licensing regime in a uniform, impartial, or reasonable manner.

- Article XI:1 of the GATT 1994, because the import licensing regime and the quotas constitute a prohibition or restriction on imports, other than in the form of duties, taxes, or other charges.

- Article 4.2 of the Agriculture Agreement, because the import licensing regime and the quotas constitute "measures of the kind which have been required to be converted

[3] *Rekomendasi Persetujuan Pemasukan*.
[4] MOT Regulation 24, Art. 3(2).

into ordinary customs duties" which Members may not maintain, resort to or revert to under that Agreement.

- Article 3.2 of the Import Licensing Agreement, because the import licensing regime constitutes a non-automatic import licensing procedure and has trade-restrictive or -distortive effects on imports additional to those caused by the imposition of any restriction that these requirements purport to implement; because the non-automatic import licensing procedures are broader in scope and duration than any measure they are used to implement; and because these procedures are more administratively burdensome than absolutely necessary to administer any such measure.

- Article 3.3 of the Import Licensing Agreement, because Indonesia has not published sufficient information for other Members and traders to know the basis for granting and/or allocating licenses.

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Therefore, the United States respectfully requests, pursuant to Article 6 of the DSU, that the Dispute Settlement Body establish a panel to examine this matter, with standard terms of reference as set out in Article 7.1 of the DSU.