

**NOTIFICATION UNDER ARTICLES OF THE AGREEMENT ON
IMPORT LICENSING PROCEDURES FROM INDONESIA¹**

Questions from the United States, Canada, the European Union and Japan to Indonesia
Regarding animal and animal product

The following communication, dated 18 October 2012, is being circulated at the request of the delegations of the United States, Canada, the European Union and Japan.

We appreciate Indonesia's responses (**G/LIC/Q/IDN/20 and G/LIC/Q/IDN/20/Corr.1**) to our questions (**G/LIC/Q/IDN/19**). We have follow-up questions to Indonesia's responses, particularly with regard to animal and animal products. We also have questions regarding Indonesia's July 2012 notification (**G/LIC/N/2/IDN/10**) of its "REGULATION OF MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA NO. 24/M-DAG/PER/9/2011" as follows:

When were the following regulations notified to the WTO: Ministry of Agriculture Regulation No. 50/2011; Ministry of Agriculture Regulation No 51/Permentan/OT.140/9/2011 concerning Recommendation of Approval on Import and Export of Seed and/or Purebred breeding animals of Livestock; and, Ministry of Agriculture Regulation No 52/Permentan/OT.140/9/2011 concerning Recommendation of Approval on Import and Export of Livestock? Please provide the WTO Secretariat document identification numbers for these notifications. If these regulations have not been notified to the WTO, we request that Indonesia promptly do so in accordance with Articles 5, 7.3 and 8.2 of the WTO Agreement on Import Licensing Procedures (hereinafter the "Import Licensing Agreement"). We further request that Indonesia please provide copies immediately of each of the regulations themselves to the WTO Secretariat as required under Article 1.4 of the Import Licensing Agreement.

We thank Indonesia for notifying its regulation 24 on 10 July 2012. Indonesia's WTO notification (**G/LIC/N/2/IDN/10**) states that the regulation was published on "07 September 2011". "In addition to the provisions of Article 3 paragraph (4), Article 3 paragraph (5), and Article 4 shall come into force on the date specified, the other provisions of this regulation comes into force on 1 October 2011." How does Indonesia justify this late publication in light of Article 1.4(a) of the Import Licensing Agreement? Furthermore, we request that Indonesia please provide copies of the regulation immediately to the WTO Secretariat as stipulated by Article 1.4 of the Import Licensing Agreement.

¹ See Understanding on procedures for the Review of Notifications (G/LIC/4).

We would like to reiterate our concern that chicken products within HS 0207.13 and HS 0207.14 are not listed in the annexes of MOA Regulation 24 or in MOT Regulation 50. (See Indonesia's response to Question 7, **G/LIC/Q/IDN/20**). If imports of these products are not prohibited, please explain why these products are not listed? Is our understanding correct that if products are not included in these lists as being eligible for a recommendation for an import permit (from MOA) and an import permit (from MOT), then that product may not be imported into the country?

Article 7 of Regulation 24 notes that items imported under the regulation "shall only be for intended uses and distribution of imported commodities for industry, hotel, restaurant, catering, and/or other specific uses." Article 3 of Ministry of Agriculture Regulation 50 also has similar language, stating that the import recommendation from Ministry of Agriculture limits imports to hotel, restaurant, catering, and food processing sectors. Does this mean that the sale of imported meat to the retail sector is not permitted?

Based on Indonesia's notification of Regulation 24 (**G/LIC/N/2/IDN/10**), but without benefit of the official copy of the regulation itself, we, nonetheless have the following questions/observations/concerns:

- How does Indonesia justify its import licenses as "automatic" under Article 2 of the Import Licensing Agreement? It appears that the licenses are not considered or issued until after the importer obtains a number of additional licenses, permits, certificates, etc., from a number of different sources. For example, Indonesia's notification of regulation 24 (**G/LIC/N/2/IDN/10**) states that the "administrative purpose" of its "automatic" licensing requirements is:

"To obtain the designation as IT-Animals and Animal Products every company must apply to the Minister in this regard the Director General, enclosing the following copy documents:

- (a) Trading License (SIUP)
- (b) Corporate Registry Number (TDP);
- (c) Taxpayer Code Number (NPWP);
- (d) Importer Identity Number (API);
- (e) Evidence of ownership of the installation and maintenance of evidence of ownership where the abattoir that meets the standards under the provisions of legislation, for feeder or
- (f) Evidence of ownership of cold storage and the evidence of ownership of refrigerated transportation for animal products".

- We believe that an "IT-Animals and Animal Products" designee means that the company is a "Registered Importer of Animal and Animal Product" under Article 24. Therefore, this regulation applies only to the importer and the importer must obtain the "Importer Identity Number". What requirements must domestic producers fulfill? Please provide a detailed explanation.
- In addition to apparent discriminatory treatment, each importer requires each of these documents to obtain the necessary permit to import. How can Indonesia consider this import permit to be automatic within the meaning of the Import Licensing Agreement?

- Since Indonesia's laws also require that domestic fulfillment of demand be considered before an import license is issued, we can only conclude that Indonesia's import licensing regime is non-automatic and, therefore, subject to Article 3 of the Import Licensing Agreement. Please respond to our questions about how Indonesia's import licensing regime complies with Article 3 of the Import Licensing Agreement.

Finally, we request Indonesia's explanation regarding how Regulation 24 is in conformity with the relevant provisions of GATT 1994, as required by Article 1.2 of the Import Licensing Agreement.
