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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-275]

WTO Consultations Regarding Venezuela—Import Licensing Measures on Certain Agricultural Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on November 7, 2002, the United States requested consultations with Venezuela under the Marrakesh Agreement Establishing the World Trade Organization (WTO), regarding Venezuela's import licensing measures on certain agricultural products. These measures appear to be inconsistent with the Venezuela's obligations under the provisions of the GATT 1994, of the WTO Agreement on Agriculture, the TRIMs Agreement and the Import Licensing Agreement and, in particular, Articles III, X, XI, and XII of the GATT 1994, Article 4.2 of the Agreement on Agriculture, Article 2.1 of the TRIMs Agreement, and Articles 1.4, 3.2, 3.5, 5.1, 5.2, and 5.3 of the Import Licensing Agreement. Pursuant to Article 4.3 of the WTO Dispute Settlement Understanding (DSU), Venezuela met with the United States within a period of 30 days from the date of the request, on November 26, 2002. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 21, 2002, to be assured of timely consideration by USTR.

ADDRESSES: Submit comments to *FR0057@ustr.gov*, or to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, fax (202) 395-3640. For assistance, contact Ms. McKinzy at (202) 395-3581.

FOR FURTHER INFORMATION CONTACT: Katharine J. Mueller, Assistant General Counsel, Office of the United States Trade Representative, at (202) 395-3581.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and

opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding. If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the United States

Venezuela has established import licensing requirements for numerous agricultural products, including corn, sorghum, dairy products (for example, cheese, whey, whole milk powder, and non-fat dry milk), grapes, yellow grease, poultry, beef, pork, and soybean meal. Thus, to import any of these products, an importer must obtain a license in accordance with Venezuelan procedures. Venezuela maintains these import licensing systems and practices through numerous measures.

Venezuela requires import licenses for other agricultural products, including poultry, beef, pork, and grapes (Decreto No. 989, Gaceta Oficial No. 5,039 Extraordinaria (February 9, 1996)), but does not appear to have published any resolutions, decrees, official notices, or any other measures establishing applicable import licensing procedures.

Venezuela's import licensing system for all of these agricultural products appears to establish a discretionary import licensing regime. Through its import licensing practices, Venezuela has also failed to establish a transparent and predictable system for issuing import licenses and has severely restricted and distorted trade in these goods. Such practices include Venezuela's failure to publish rules and information concerning its licensing procedures, its failure to process applications in a timely fashion, its failure to make licenses valid for a period of reasonable duration, and its administration of tariff-rate quotas so as to discourage their full utilization. In addition, in several cases Venezuela has tied the issuance of licenses to the purchase, consumption, or use of domestic products or investment in domestic production. At least twice Venezuela has explicitly banned the importation of corn by suspending the granting of import license until

domestic production has been removed from the market.

Venezuela's import licensing systems and practices thus appear to be inconsistent with numerous WTO obligations. Specifically, Venezuela's measures appear inconsistent with Article 4.2 of the Agreement on Agriculture, Articles II, X, XI, and XIII of GATT 1994, Article 2.1 of the TRIMs Agreement, and Articles 1.4, 3.2, 3.5, 5.1, 5.2, and 5.3 of the Import Licensing Agreement. Venezuela's measures also appear to nullify or impair the benefits accruing to the United States directly under the cited agreements.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English. In order to facilitate prompt consideration of submissions, USTR strongly urges and prefers electronic e-mail submissions to the address *vzimportlicensing@ustr.gov*, in response to this notice. In the event that an e-mail submission is impossible, submissions should be made by facsimile to Sandy McKinzy at the number given above. It is preferred that documents be submitted as either WordPerfect (".WPD"), MSWord (".DOC"), or text (".TXT") files. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself, and not as separate files. Facsimile submissions should include the following information at the top of the first page, and e-mail submissions should include the following information in the subject line: "Venezuela Import Licensing Dispute."

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" (if possible in a contrasting color ink) at the top of each page of each copy. For any document containing business confidential information submitted by electronic transmission, the file name of the business confidential version should begin with the characters "BC", and the file name of the public version should begin with the characters "P". The "P" or "BC" should be followed by the name of the commenter. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in