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**INDONESIA – IMPORTATION OF HORTICULTURAL PRODUCTS,
ANIMALS AND ANIMAL PRODUCTS**

JOINT COMMUNICATION FROM THE EUROPEAN UNION AND CANADA

The following communication, dated 7 March 2013, from the delegation of the European Union and the delegation of Canada to the delegation of Indonesia and to the Chairperson of the Dispute Settlement Body, is circulated at the request of those delegations.

The European Union and Canada refer to the letter from Indonesia, dated 20 February 2013 and circulated to the Dispute Settlement Body (DSB) on 25 February 2013¹, relating to their requests to join the consultations in *Indonesia – Importation of Horticultural Products, Animals and Animal Products* (DS455)².

In that communication, Indonesia indicated that it “would like to accept” the requests to join the consultations, but that it “desired to conduct the consultation with the United States on 21-22 February 2013 in Geneva bilaterally, and will conduct another consultation together with the third parties in further proposed date.”

The European Union and Canada recall that Article 4.11 of the Dispute Settlement Understanding (DSU) provides that upon a request to join the consultations, “[s]uch Member *shall be joined* in the consultations, provided that the Member to which the request for consultations was addressed agrees that the claim of substantial interest is well-founded” (emphasis added).

By informing the DSB that it accepted the requests to be joined in the consultations, Indonesia indicated its agreement that the claims of substantial interest are well-founded. However, by proposing to hold the consultations with the third party requesting Members separately from those that were held between Indonesia and the United States on 21-22 February 2013, Indonesia effectively did not “join” the third party requesting Members in the consultations, as is required by Article 4.11 of the DSU.

The European Union and Canada express their reservations that Indonesia has chosen to conduct these consultations in this manner. This approach respects neither the letter nor the spirit of Indonesia’s obligations – and the corresponding rights of third party requesting Members – under Article 4.11, and as such raises significant systemic concerns.

¹ Communication from Indonesia, circulated to the DSB on 25 February 2013, WT/DS455/5.

² See Request to join consultations - Communication from the European Union, dated 29 January 2013 (WT/DS455/2) and Request to join consultations - Communication from Canada, dated 29 January 2013 (WT/DS455/3).

The European Union and Canada are providing a copy of this communication to the Chair of the DSB with a request that it be circulated to all members of the DSB.

(Signed)
Angelos Pangratis
Ambassador
Permanent Representative to the WTO

(Signed)
Bruce Christie
Minister
Deputy Permanent Representative
to the WTO
