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**EUROPEAN COMMUNITIES – MEASURES CONCERNING
MEAT AND MEAT PRODUCTS (HORMONES)**

JOINT COMMUNICATION FROM THE EUROPEAN UNION AND THE UNITED STATES

The following communication, dated 14 April 2014, from the delegations of the European Union and the United States to the Chairperson of the Dispute Settlement Body, is circulated at the request of those delegations.

The United States and the European Union previously notified the Dispute Settlement Body (DSB) of a Memorandum of Understanding (MOU) regarding the importation of beef from animals not treated with certain growth-promoting hormones and increased duties applied by the United States to certain products of the European Communities, agreed between the United States and the European Communities on 13 May 2009, in relation to the dispute *European Communities – Measures Concerning Meat and Meat Products (Hormones)* (DS26). The MOU was circulated in WT/DS26/28. Attached please find a revised MOU agreed between the United States and the European Union, dated 21 October 2013.

We would be grateful if this revised MOU could be circulated to the Dispute Settlement Body.

ARTICLE I

Purpose and Objectives

With this Understanding, the United States and the European Union intend to achieve the following objectives:

1. To provide, in a first phase ("Phase 1"), for temporary and partial:
 - (a) expansion by the EU of market access for High Quality Beef, and
 - (b) reduction in the level of increased duties applied by the United States to certain EU products authorized by the WTO in 1999 (the "increased duties")

in order for the Parties to gain experience in additional trade in High Quality Beef and facilitate a transition to long-term conditions;

2. To provide the opportunity to move to a second phase ("Phase 2"), for:
 - (a) further expansion by the EU of market access for High Quality Beef, and
 - (b) reduction to zero of the increased duties

in order for the Parties to gain experience in additional expanded trade in High Quality Beef and facilitate a transition to long-term conditions; and

3. To provide the further opportunity for entering into a third phase ("Phase 3") with regard to the WTO dispute between the Parties, *EC – Measures Concerning Meat and Meat Products (Hormones)*.

ARTICLE II

Core Obligations

1. At the beginning of Phase 1, the EU will establish an autonomous tariff rate quota for High Quality Beef of an annual quantity of 20 000 Metric Tonnes product weight, and for which the in-quota tariff rate is zero (0) %.
2. The EU will open the autonomous tariff rate quota referred to in paragraph 1 by 3 August 2009.
3. With respect to the increased duties, the United States will not add to scope, change the origin of products subject to increased duties or increase the level of such duties as in force as of 23 March 2009.
4. Should the United States and the EU enter into Phase 2, as described in Article I.2, and negotiated under Article IV.2:
 - (a) the EU will increase the quantity of the autonomous tariff rate quota referred to in paragraph 1 to 45 000 Metric Tonnes product weight, and
 - (b) the United States will suspend all increased duties imposed in connection with WTO dispute settlement proceedings in *EC – Measures Concerning Meat and Meat Products (Hormones)*.
5. Should the United States and the EU enter into Phase 3, as described in Article I.3, and negotiated under Article IV.3:
 - (a) the EU will maintain the quantity of the autonomous tariff rate quota referred to in paragraph 1, at the level specified in paragraph 4(a), and

- (b) the United States will cease the increased duties imposed in connection with WTO dispute settlement proceedings in *EC – Measures Concerning Meat and Meat Products (Hormones)*.

ARTICLE III

Quota Management

1. The Parties agree that the tariff rate quota referred to in Article II will be administered by the Commission on a first-come, first-served basis.
2. The Commission will implement and administer the tariff rate quota set out in this Understanding in accordance with Article XIII of the General Agreement on Tariffs and Trade (GATT) 1994, including its interpretative notes. The Commission will make every effort to administer the tariff rate quota referred to in Article II in a manner that allows importers to fully utilize it.

ARTICLE IV

Monitoring and Consultations

1. The United States and the EU will:
 - (a) monitor and review the operation of this Understanding, and
 - (b) upon the request of either Party, conduct additional bilateral consultations regarding the operation of this Understanding, including issues of quota management, not later than thirty (30) days following the receipt of the request in writing for consultations.
2. The United States and the EU will, beginning not later than eighteen (18) months from the date specified in Article II.2, meet to review the operation of Phase 1 with a view to entering into Phase 2.
3. Should the United States and the EU enter into Phase 2, the United States and the EU will, beginning not later than six (6) months from the date on which the EU implements the obligation set out in Article II.4(a), meet to review the operation of Phase 2 with a view to entering into Phase 3. This review will notably cover, inter alia, the following issues:
 - (a) the duration of Phase 3,
 - (b) the status and effects of the Understanding relative to the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU),
 - (c) the consequences of non-compliance with the terms of the Understanding by either Party, and
 - (d) the status and disposition of any dispute settlement proceeding in *EC – Measures Concerning Meat and Meat Products (Hormones)*.
4. After concluding the review referred to in paragraph 3, if the Parties agree on conditions for entering into Phase 3, the Parties may, by applying the procedure set out in Article V.5, amend the Understanding in order to reflect the agreed conclusions of that review. Such an amendment will not alter the core obligations as referred to in Article II.5.
5. As part of this review, the Parties have agreed to modify this Understanding on 21 October 2013.

ARTICLE V

Duration, Withdrawal and Amendment

1. Phase 1 will have a duration of three (3) years from the date specified in Article II.2.
2. Phase 2 will have a duration of three (3) years from the date the Parties entered into Phase 2.
3. Phase 3 shall begin upon a notification to the WTO Dispute Settlement Body to this effect.
4. Either the United States or the EU may withdraw from this Understanding by providing written notice to the other Party. Should either Party provide such written notice, this Understanding shall expire six (6) months from the date such notice was provided. Should both Parties provide such written notice, this Agreement shall expire six (6) months from the earliest of the dates on which such notice was provided. During this six (6) month period, the core obligations, as defined in Article II, applicable at the time of the provision of the withdrawal notice, will be maintained by both Parties.
5. The United States and the EU may amend this Understanding by mutual agreement in writing.

ARTICLE VI

Definitions

For the purposes of this Understanding, "High Quality Beef" means:

"Beef cuts obtained from carcasses of heifers and steers less than 30 months of age which have only been fed a diet, for at least the last 100 days before slaughter, containing not less than 62 % of concentrates and/or feed grain co-products on a dietary dry matter basis that meet or exceed a metabolisable energy (ME) content greater than 12,26 megajoules (MJ) per one kilogram of dry matter. The heifers and steers fed this diet shall be fed, on average, not less than 1,4 % of live body weight per day on a dry matter basis.

The carcass from which beef cuts are derived shall be evaluated by an evaluator employed by the national government who bases the evaluation, and a resulting classification of the carcass, on a method approved by the national government. The national government evaluation method, and its classifications, must evaluate expected carcass quality using a combination of carcass maturity and palatability traits of the beef cuts. Such an evaluation method of the carcass shall include, but not be limited to, an evaluation of the maturity characteristics of color and texture of the longissimus dorsi muscle and bone and cartilage ossification, as well as an evaluation of expected palatability traits including a combination of the discrete specifications of intramuscular fat and firmness of the longissimus dorsi muscle.

The cuts shall be labeled in accordance with Article 13 of Regulation (EC) No. 1760/2000.

The indication 'High Quality Beef' may be added to the information on the label."

ARTICLE VII

Reservation of Rights

1. Neither Party will request the establishment of a panel under Article 21.5 of the DSU in *EC – Measures Concerning Meat and Meat Products (Hormones)* during Phase 2 or Phase 3 of this Understanding.

2. Neither this Understanding nor the Parties' taking of any of the steps contemplated by this Understanding prejudices the disagreement between the Parties regarding whether the DSB recommendations and rulings in *EC – Measures Concerning Meat and Meat Products (Hormones)* have been implemented.
3. Other than as specifically set forth herein, this Understanding is without prejudice to the rights and obligations of the United States and the EU under the WTO agreements.

ARTICLE VIII

Relation with WTO Rights

1. The Parties envisage that Phase 3 would involve termination of the authorization under Article 22.7 of the DSU, made by the DSB at its meeting of July 26, 1999, and that no further action under the DSU with respect to DS26 would be taken.
 2. This Understanding and the step under the DSU referred to in paragraph 1 are without prejudice to any Party's right to initiate a new dispute under the DSU.
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