

**TURKEY – MEASURES AFFECTING THE IMPORTATION OF RICE**

Request for the Establishment of a Panel by the United States

The following communication, dated 6 February 2006, from the delegation of the United States to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

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On 2 November 2005, the United States requested consultations with the Government of Turkey 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 6 of the *Agreement on Import Licensing Procedures* ("Import Licensing Agreement"), Article 8 of the *Agreement on Trade-Related Investment Measures* ("TRIMs Agreement"), and Article 19 of the *Agreement on Agriculture* ("Agriculture Agreement") with respect to Turkey's import restrictions on rice from the United States. The United States and Turkey held consultations on 1 December 2005. Unfortunately, those consultations did not resolve the dispute.

Therefore, the United States respectfully requests, pursuant to Article 6 of the DSU, Article 6 of the Import Licensing Agreement, Article 8 of the TRIMs Agreement, and Article 19 of the Agriculture Agreement, that the Dispute Settlement Body ("DSB") establish a panel to examine this matter.

Turkey maintains a number of restrictions on the importation of rice. Under its import regime for rice, Turkey requires an import license to import rice. Turkey operates tariff-rate quotas ("TRQs") for rice imports requiring that, in order to import specified quantities of rice at reduced tariff levels, importers must purchase specified quantities of domestic rice, including from the Turkish Grain Board ("TMO"), Turkish producers, or producer associations ("domestic purchase requirements"). In addition, Turkey denies or fails to grant licenses to import rice at or below the bound rate of duty without domestic purchase, including at the over-quota rate of duty.

The United States understands that the means through which Turkey has maintained this restrictive import regime include:

- Decree No. 96/7794 related to the General Assessment of the Regime Regarding Technical Regulations and Standardization for Foreign Trade (Official Gazette, No. 22541, 1 February 1996, Repeated);
- Decision of the board of ministers: Decree No. 2004/7135 related to the implementation of a tariff quota for certain types of paddy rice and rice types imports (Official Gazette, No. 25439, 20 April 2004);

- A notification related to implementation of tariff quotas for certain types of paddy and rice imports, from the Foreign Trade Undersecretariat (Official Gazette, No. 25445, 27 April 2004);
- Decision of the board of ministers: Decree No. 2004/7333 related to the management of quota and tariff contingent on import (Official Gazette, No. 25473, 26 May 2004);
- Decision of the board of ministers: Decree No. 2004/7756 related to the implementation of a tariff contingent on the import of certain paddy rice and rice types (Official Gazette, No. 25566, 27 August 2004);
- A notification about the implementation of a tariff contingent on the import of certain paddy rice and rice types, from the Foreign Trade Undersecretariat (Official Gazette, No. 25577, 8 September 2004);
- A communiqué on Standardization in Foreign Trade, Communiqué No. 2005/05 (Official Gazette, No. 25687, 31 December 2004);
- A notification about the amendment of the notification related to the implementation of a tariff contingent on the import of certain paddy rice and rice types, from the Foreign Trade Undersecretariat (Official Gazette, No. 25767, 26 March 2005);
- A notification about the amendment of the notification related to the implementation of a tariff contingent (customs duty) on the import of certain paddy rice and rice types, from the Foreign Trade Undersecretariat (Official Gazette, No. 25812, 11 May 2005);
- Decision of the board of ministers: Decree No. 2005/9315 related to the implementation of a tariff contingent on the import of certain types of paddy rice and rice types (Official Gazette, No. 25935, 13 September 2005);
- A notification related to the implementation of a tariff contingent on the import of certain paddy rice and rice types, from the Foreign Trade Undersecretariat (Official Gazette, No. 25943, 21 September 2005);
- "Letters of Acceptance," including Letter of Acceptance 964 (10 September 2003), Letter of Acceptance 107 (23 January 2004), Letter of Acceptance 905 (28 June 2004), and Letter of Acceptance 1795 (30 December 2004), in which the Minister of Agriculture accepts recommendations from the General Directorate of Protection and Control of the Ministry of Agriculture and Rural Affairs to delay the start date for the period in which import licenses may be granted; and
- any amendments or extensions to these measures, and any related or implementing measures.

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

Denial of, or failure to grant, import licenses to import rice at or below the bound rate of duty

- (1) Article XI:1 of the GATT 1994 because Turkey's denial of, or failure to grant, import licenses for rice at or below the bound rate of duty constitutes a prohibition or restriction on imports other than in the form of duties, taxes, or other charges;

- (2) Article 4.2 of the Agriculture Agreement because Turkey's denial of, or failure to grant, import licenses for rice at or below the bound rate of duty are "measures of the kind which have been required to be converted into ordinary customs duties," such as quantitative import restrictions, discretionary import licensing, and non-tariff measures maintained through a state-trading enterprise, which Members may not resort to or maintain under that Agreement;
- (3) Articles 1.4(a) and (b) of the Import Licensing Agreement and Articles X:1 and X:2 of the GATT 1994 because Turkey has not published its denial of, or failure to grant, import licenses at or below the bound rate of duty and, thus, has neither provided an opportunity for governments and traders to become acquainted with it nor has it provided Members with the opportunity to provide written comments and to discuss those comments upon request;
- (4) Articles 3.3 and 3.5(e) and (f) of the Import Licensing Agreement because Turkey does not approve requests for import licenses at or below the bound rate of duty; does not publish sufficient information for other Members and traders to know that import licenses will not be approved; does not specify a time frame within which import license applications that are submitted will be approved or rejected; does not provide applicants with the reasons for rejection; and does not provide a process for appeal or review in the event of rejection;

Domestic purchase requirements and administration of TRQs for reduced duty imports of rice

- (5) Article 2.1 and paragraph 1(a) of Annex 1 of the TRIMs Agreement because Turkey imposes domestic purchase requirements;
- (6) Article III:4 of the GATT 1994 because Turkey accords imported rice less favorable treatment than domestic rice through the imposition of domestic purchase requirements "affecting [its] internal sale, offering for sale, purchase, transportation, distribution, or use";
- (7) Article XI:1 of the GATT 1994 because Turkey's domestic purchase requirements constitute restrictions on imports other than in the form of duties, taxes, or other charges;
- (8) Article 4.2 of the Agriculture Agreement because the domestic purchase requirements are "measures of the kind which have been required to be converted into ordinary customs duties," such as quantitative import restrictions, discretionary import licensing, and non-tariff measures maintained through a state-trading enterprise, which Members may not resort to or maintain under that Agreement;
- (9) Articles 1.4(a) and (b) and 3.5(b) and (d) of the Import Licensing Agreement and Articles X:1 and X:2 of the GATT 1994 because Turkey does not publish the correct amount of the TRQs to be applied; does not always publish the TRQs to be applied, or changes to the TRQs, within the time periods specified in Article 1.4 and in such a manner as to enable governments and traders to become acquainted with them; and does not provide Members with the opportunity to provide written comments and to discuss those comments upon request;
- (10) Article 3.5(g) of the Import Licensing Agreement because the periods of import license validity under the TRQs are not of reasonable duration and are so short as to preclude imports;
- (11) Article 3.5(h) of the Import Licensing Agreement because Turkey administers its TRQs in such a way as to discourage the full utilization of quotas;

Other Claims Relating to Turkey's Import Regime

- (12) Article XI:1 of the GATT 1994 because Turkey's domestic purchase requirements, in conjunction with its denial of, or failure to grant, import licenses for rice at or below the bound rate of duty, constitute restrictions on imports other than in the form of duties, taxes, or other charges;
- (13) Article 4.2 of the Agriculture Agreement because Turkey's domestic purchase requirements, in conjunction with its denial of, or failure to grant, import licenses for rice at or below the bound rate of duty, are "measures of the kind which have been required to be converted into ordinary customs duties," such as quantitative import restrictions, discretionary import licensing, and non-tariff measures maintained through a state-trading enterprise, which Members may not resort to or maintain under that Agreement;
- (14) Articles X:3(a) and (b) of the GATT 1994 because Turkey does not administer its import regime in a "uniform, impartial and reasonable manner" and does not maintain tribunals or procedures for promptly reviewing and correcting administrative actions relating to the importation of rice under Turkey's import regime;
- (15) Article 1.2 of the Import Licensing Agreement because the measures Turkey utilizes to implement its import licensing regime are not in conformity with the relevant provisions of the GATT 1994;
- (16) Article 1.3 of the Import Licensing Agreement because Turkey's import licensing regime is not administered in a fair and equitable manner;
- (17) Article 1.5 of the Import Licensing Agreement because Turkey requires information and documentation upon application that are not strictly necessary for the proper functioning of its import licensing regime;
- (18) Article 1.6 of the Import Licensing Agreement because applicants are not provided a reasonable period of time for submitting applications and because applicants have to approach more than one administrative body in connection with their applications;
- (19) Article 3.2 of the Import Licensing Agreement because Turkey's non-automatic import licensing regime has trade-distortive or trade-restrictive effects on imports and is more administratively burdensome than absolutely necessary;
- (20) Article 3.5(a) of the Import Licensing Agreement because Turkey has failed to provide, upon the request of the United States, all relevant information concerning the administration of Turkey's import licensing regime and the import licenses granted over a recent period; and
- (21) Articles 5.1, 5.2, 5.3, and 5.4 of the Import Licensing Agreement because Turkey has failed to notify its import licensing regime for rice.

Turkey's measures also appear to nullify or impair the benefits accruing to the United States directly or indirectly under the cited agreements.

Accordingly, the United States requests that a Panel be established with standard terms of reference as set out in Article 7.1 of the DSU.

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