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VENEZUELA – IMPORT LICENSING MEASURES ON CERTAIN AGRICULTURAL PRODUCTS

Request for Consultations by the United States

The following communication, dated 7 November 2002, from the Permanent Mission of the United States to the Permanent Mission of Venezuela and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Government of Venezuela 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 19 of the *Agreement on Agriculture*, and Article 8 of the *Agreement on Trade-Related Investment Measures* (TRIMs Agreement), with respect to Venezuelan import licensing systems and practices that restrict agricultural imports from 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, including:

for yellow corn and sorghum,

- Ministerio de Hacienda DM/ No. 3299, Ministerio de Industria y Comercio DM/ No. 036 & Ministerio de Agricultura y Cria DM/ No. 038, *Gaceta Oficial de la República de Venezuela* No. 36,142 (6 February 1997);
- Ministerio de Hacienda DM/ No. 4315, Ministerio de Industria y Comercio DM/ No. 569 & Ministerio de Agricultura y Cria DM/ No. 703, *Gaceta Oficial* No. 36,620 (13 January 1999);
- Ministerio de Finanzas DM/ No. 284 & Ministerio de la Producción y el Comercio DM/ No. 628, *Gaceta Oficial* No. 36,831 (17 November 1999);
- Ministerio de la Producción y el Comercio, *Aviso Oficial: Mecanismo de Comercialización de Cereales* (18 September 2001);
- Ministerio de la Producción y el Comercio, *Aviso Oficial: Mecanismo de Comercialización de Cereales* (11 October 2001);
- Ministerio de Finanzas DM/ No. 868 & Ministerio de la Producción y el Comercio DM/ No. 0002, *Gaceta Oficial* No. 37,368 (21 January 2002);

- Ministerio de Finanzas Resolución No. 911, *Gaceta Oficial* No. 5,581 Extraordinaria (27 March 2002);
- and related resolutions, decrees, official notices, and amendments;

for dairy products (for example, cheese, whey, whole milk powder, and non-fat dry milk),

- Ministerio de Hacienda No. 3677, Ministerio de Industria y Comercio No. 232 & Ministerio de Agricultura y Cria No. 298, *Gaceta Oficial* No. 36,311 (13 October 1999);
- Ministerio de Finanzas DM/ No. 285 & Ministerio de la Producción y el Comercio DM/ No. 631, *Gaceta Oficial* No. 36,831 (17 November 1999);
- Ministerio de Finanzas Resolución No. 294, *Gaceta Oficial* No. 36,850 (14 December 1999);
- Ministerio de Finanzas DM/ No. 848 & Ministerio de la Producción y el Comercio DM/ No. 898, *Gaceta Oficial* No. 37,329 (21 November 2001);
- and related resolutions, decrees, official notices, and amendments; and

for yellow grease and soybean meal,

- Ministerio de Finanzas DM/ No. 282 & Ministerio de la Producción y el Comercio DM/ No. 627, *Gaceta Oficial* No. 36,831 (17 November 1999);
- Ministerio de Finanzas Resolución No. 295, *Gaceta Oficial* No. 36,850 (14 December 1999);
- Ministerio de Finanzas DM/ No. 850 & Ministerio de la Producción y el Comercio DM/ No. 918, *Gaceta Oficial* No. 37,329 (21 November 2001);
- and related resolutions, decrees, official notices, and amendments.

Venezuela requires import licenses for other agricultural products, including poultry, beef, pork, and grapes (Decreto No. 989, *Gaceta Oficial* No. 5,039 Extraordinaria (9 February 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 licenses 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 III, 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 or indirectly under the cited agreements.

Madam Ambassador, we urge Venezuela to take this request for consultations as an opportunity to bring its import regime for agricultural products into compliance with Venezuela's WTO commitments. We look forward to receiving your reply to the present request and to fixing a mutually convenient date for consultations.
