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**INDONESIA – RECOURSE TO ARTICLE 22.2 OF THE DSU IN THE  
US – CLOVE CIGARETTES DISPUTE**

**NOTIFICATION OF A MUTUALLY AGREED SOLUTION AND  
A WITHDRAWAL OF A REQUEST FOR CONSULTATIONS**

The following communication, dated 6 May 2015, from the delegation of the European Union and the delegation of Indonesia to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Articles 3.6 and 4.4 of the DSU.

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By communication dated 13 June 2014 the European Union requested consultations with the Government of the Republic of Indonesia ("Indonesia") pursuant to Articles 1 and 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") and Article XXII:1 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994") with particular respect to Indonesia's recourse to Article 22.2 of the DSU in the context of the proceedings in Case DS406 *United States – Measures Affecting the Production and Sale of Clove Cigarettes*, and the exclusion of third parties from those proceedings. The European Union considered this to be inconsistent with Articles 21.5, 22.2, 23.1 and 23.2(a) of the DSU, as well as Articles 10.1, 10.2 and 10.3 of the DSU.<sup>1</sup>

By communication dated 3 October 2014 from the delegation of Indonesia and the delegation of the United States to the Chairperson of the Dispute Settlement Body Indonesia and the United States notified the DSB that they had reached a mutually agreed solution to the matter raised by the Government of Indonesia in *United States – Measures Affecting the Production and Sale of Clove Cigarettes* (WT/DS406). In light of the mutually agreed solution, Indonesia withdrew its request to the DSB (circulated as WT/DS406/12) pursuant to Article 22.2 of the DSU for authorization to suspend the application to the United States of concessions and other obligations under the General Agreement on Tariffs and Trade 1994, the Agreement on Technical Barriers to Trade, and the Agreement on Import Licensing Procedures. Indonesia having withdrawn its request under Article 22.2 of the DSU, the United States withdrew its objection to that request (circulated as WT/DS406/13).<sup>2</sup>

By communication dated 8 October 2014 the Chairperson of the Arbitrator/Arbitration Panel in DS406 informed the DSB that Indonesia and the United States had:

- a. indicated that they have reached a mutually agreed solution in this dispute, which they have jointly notified to the DSB;
- b. informed the Arbitrator/Arbitration Panel that Indonesia has withdrawn its request under Article 22.2 of the DSU (WT/DS406/12) and that the United States has withdrawn its objection to that request (WT/DS406/13); and
- c. jointly requested that the Arbitrator/Arbitration Panel notify the Dispute Settlement Body that it is not necessary for the Arbitrator/Arbitration Panel to issue a decision and that its work has been completed.

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<sup>1</sup> WT/DS481/1 of 19 June 2014.

<sup>2</sup> WT/DS406/17, G/L/917/Add.1 of 9 October 2014.

In light of these circumstances, the Arbitrator/Arbitration Panel informed the DSB that it considers that it is not necessary for it to issue a decision on the matter referred to it. The Arbitrator/Arbitration Panel therefore considers that it has completed its work.<sup>3</sup>

In light of these developments, the Parties wish to inform the DSB that the European Union has withdrawn its Request for Consultations in DS481.

We would ask you to circulate this notification to the relevant Councils and Committees, as well as to the DSB, in accordance with Articles 3.6 and 4.4 of the DSU.

(Signed)  
H.E. Mr. Angelos Pangratis  
Ambassador  
Permanent Mission of the European Union  
to the WTO

(Signed)  
H.E. Mr Iman Pambagyo  
Ambassador  
Deputy Permanent Representative  
In Charge of WTO issues  
Mission of Indonesia

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<sup>3</sup> WT/DS406/18 of 9 October 2014.