



March 12, 2013

Mr. Arthur Tsao
Assistant General Counsel
Office of the United States Trade Representative (USTR)
600 17 St., NW, Winder Building
Washington, D.C. 20508
202-395-3150

Re: WTO Dispute Settlement Proceeding Regarding Indonesia Importation of Horticultural Products, Animals and Animal Products (Dispute No WT/DS455)

Comments of USA Poultry & Egg Export Council (USAPEEC), the National Chicken Council (NCC) and the National Turkey Federation (NTF)

USA Poultry & Egg Export Council (USAPEEC), the National Chicken Council (NCC), and the National Turkey Federation (NTF) jointly submit this statement in response to the *Federal Register* notice of February 19, 2013 (78 Fed. Reg. 11725) soliciting public comment. The three organizations express their strong support for U.S. government decision to seek dispute settlement under World Trade Organization (WTO) rules to challenge the restrictive licensing regimes imposed by the Republic of Indonesia on imports of animal products.

USAPEEC is a national trade association, headquartered in Stone Mountain, Georgia, that represents the interests of America's poultry and egg export industry. USAPEEC has more than 200 member companies involved in export trade including poultry and egg producers, trading companies, freight forwarders, shipping companies, cold storage facilities and port authorities. USAPEEC represents companies that account for approximately 95 percent of all U.S. poultry and egg exports. Annually, the U.S. poultry industry exports more than 3.3 million metric tons valued at over \$5 billion to more than 100 countries, making poultry and eggs one of the most important U.S. agricultural export sectors.

NCC is a national association, headquartered in Washington, DC that represents the legislative, regulatory, and related interests of companies that produce/process more than 95 percent of U.S. chicken. With approximately 20 percent of all U.S. broiler production being exported, it is essential that U.S. chicken producers have fair and open access to world markets.

NTF is the national trade association, headquartered in Washington DC that advocates for all segments of the turkey industry, providing services and conducting activities to increase

demand for its member's products. Turkey and turkey products are an increasingly important component of U.S. agricultural exports.

We, the three organizations, agree with the Office of the U.S. Trade Representative that Indonesia maintains an administratively burdensome and trade-restrictive set of licensing requirements that are inconsistent with Indonesia's obligations under WTO rules. Licenses to import chicken and turkey meat and products into Indonesia are difficult to obtain, are often refused for no clear or stated reason, and even when granted, are issued in an unclear and seemingly arbitrary manner. As a result, traders are discouraged from even attempting to participate in the market because, faced with an entirely non-transparent and irrationally applied set of measures, seeking a license to import product into Indonesia is considered to be a total waste of time and resources.

In reality, however, this burdensome and non-transparent nature of Indonesia's licensing system is only a part of the problem for U.S. poultry and meat exporters. The more fundamental issue is that Indonesia maintains *de facto* quantitative restrictions on imports of poultry under a pair of regulations that were enacted in 2011. Pursuant to Ministry of Agriculture Regulation No.50 and Ministry of Trade Regulation No. 24, Indonesia sets the types and allowable quantity of unprocessed and processed meat and poultry products (and also dairy products and a wide range of other processed foods) that may be imported into the country. In regards to poultry products, at the current time Indonesia only permits the importation of whole duck and whole turkey in specified quantities; the annual import quota for all other poultry and poultry products is effectively zero. The system works in this manner:

All importers intending to import meat or poultry carcasses, edible offal and/or processed products are required to apply for an import permit (SPP) from the Ministry of Trade. The import permit will be issued only if the importer can obtain an Import Approval Recommendation (RPP) from the Ministry of Agriculture. The RPP must be issued by the Director General of Livestock and Animal Health Services (DGLAHS) on behalf of the Minister of Agriculture to the importer and must indicate the proposed import amount is intended for use in hotel, restaurant, catering or food processing sectors. Issuance of RPP is conducted in two periods (semesters) during the course of the year. Currently, the RPP amounts for whole chicken and chicken parts allowed for importation into Indonesia is zero. At the current time, Attachment II of Regulation No. 50 of Ministry of Agriculture lists only whole duck, whole turkey as permissible types of poultry imports.

Under current Indonesian government policy, RPPs will be issued for imports of live animal and animal products if the Indonesia Ministry of Agriculture determines that domestic production and supply of animal products are not adequately available for public consumption at reasonable prices. National allocations for imported live animal and animal products are issued every year based on the results of a Coordination Meeting at the ministerial level in consideration of domestic production and demand. If the Ministry decides to allow imports (and currently there are no allowed imports of chicken meat or chicken products), then it also sets an import permit (SPP) allocation for each registered importer based on the capacity of the

importer’s temporary animal quarantine installation, maximum load capacity and past performance value.

The current Indonesia regime for imported poultry and poultry products is, therefore, inconsistent with Indonesia’s WTO obligations in a number of other ways not mentioned in the *Federal Register* request for comments. First, Indonesia applies quantitative limits on imports of poultry products in violation of its obligations under Article XI of the GATT-1994 Agreement and several provisions of the WTO Agreement on Agriculture; and in direct contravention of the Article II of GATT-1994 and Indonesia’s Schedule of Tariff Concessions. Indonesia requires that imports of carcasses meats, edible offal and or processed products be directed into the industrial, hotel restaurant, catering and or other specific sub-markets, again in contravention of a number of commitments it has made under WTO rules. The limitations on specific importers is also a violation of WTO rules.

In summary, the regulation of imported meat and poultry is carried out via the two overlapping measures. Firstly, the RPP regulates the national import quota allowed for meats and poultry (which is zero for whole chicken and chicken parts). Secondly, the SPP or import permit is issued only to registered importers and again these importers are subjected to individual quotas.

Even though the United States is the largest exporter of broiler and turkey products in the world, and currently the most efficient producer of these products, U.S. companies have shipped no broiler meat to Indonesia in the last three years (except for a very limited amount of prepared chicken products in 2012), as evidenced by both U.S. export statistics (Table 1) and Indonesian import data (Table 2). U.S. poultry exports to Indonesia during that time include only a small volume of turkey and duck products.

Table 1 -U.S. poultry (HS code 0207) exports to Indonesia

Partner	HS Code	Product	2010		2011		2012	
			Value (1,000 US\$)	Qty (MT)	Value (1,000 US\$)	Qty (MT)	Value (1,000 US\$)	Qty (MT)
Indonesia	0207	Meat, Poultry	189	69	527	184.7	358	142.7
Indonesia	020725	Turkey, Whole Froz	92	44.8	287	102.6	353	141.8
Indonesia	020727	Turkey, Cuts Froz	0	0	0	0	4	0.9
Indonesia	020712	Fowls, Whole Froz	97	24.1	92	24	0	0
Indonesia	020733	Ducks, Whole Froz	0	0	147	58.1	0	0

Data Source: Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics

Table 2 – Indonesia poultry (HS code 0207) imports from the United States

Indonesia Import Statistics From United States							
Commodity: 0207, Meat And Edible Offal Of Poultry (Chickens, Ducks, Geese, Turkeys And Guineas), Fresh, Chilled Or Frozen							
Annual Series: 2010 – 2011							
Commodity	Description	2010		2011		Jan-Nov 2012	
		Qty (MT)	Value (US\$)	Qty (MT)	Value (US\$)	Qty (MT)	Value (US\$)
0207	Meat & Ed Offal Of Poultry, Fresh, Chill Or Frozen	92	247,162	232	722,943	153	455,328
020725	Turkeys, Not Cut In Pieces, Frozen	66	168,173	170	502,765	153	455,328
020733	Ducks, Geese & Guineas, Not Cut In Pieces, Frozen	26	78,989	62	220,178	0	0

Source: the Global Trade Atlas

This situation is in spite of the fact that there is substantial unmet demand and sales potential for U.S. chicken and turkey products in the Indonesian market if U.S. exporters had fair and WTO-consistent access. Sales of poultry and related products would approach \$50 million on an annual basis. The current population of Indonesia is 248 million, and Indonesia is expected to experience an annual growth rate in total population slightly in excess of one percent for the next decade, but with its urban population growing at approximately 3 per cent per annum. About 88 percent of the population in Indonesia is of the Muslim religion and the per capita GDP while low, is indicative of a developing country with a significantly increasing middle class. Real per capita GDP (in 2005 US\$) in Indonesia is expected to increase from \$1,715 in 2012 to \$2,580 in 2021, or an average annual growth of 4.6%. Both of these factors – predominant religion and growing middle class income – strongly favor increased poultry consumption.

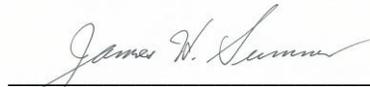
Indeed, per capita broiler consumption in Indonesia has been growing at an average rate of 5.4% during the past twelve years (2000-2012). Nonetheless, per capita broiler consumption in Indonesia remains low – about 6.2 kilograms per person – and that is attributable to government policies that have tended to exclude exports in order to protect domestic producers. Consumers in Indonesia continue to pay much higher than average prices for poultry meat and products because the rising demand from a continually increasing and steadily more prosperous population cannot be met by domestic production. Domestic production of poultry meat in Indonesia is not efficient as the poultry production sector is heavily dependant upon importation of basic feed products such as soybeans and soybean meal. Further, the supporting infrastructure for a modern, world-class poultry industry is severely lacking.

In summary, the National Chicken Council, USA Poultry & Egg Export Council, and the

National Turkey Federation believe that Indonesia is a market of rising demand for poultry products, and one in which the United States could participate successfully if Indonesia were to permit imports to compete fairly in accordance with WTO rules. However, Indonesia has historically protected its domestic industry by blocking imports through its imposition of arbitrary and non-transparent import licensing measures and other non-tariff barriers.

We fully support the efforts of the United States Government to redress the situation by invoking dispute settlement before the World Trade Organization. We look forward to continuing to work with the Administration and Congress on this important issue so that the market potential for U.S. poultry in Indonesia can be fully realized.

Sincerely,



James H. Sumner
USA Poultry & Egg Export Council
2300 West Park Place Blvd./#300
Stone Mountain, GA 30087
Phone: 770-413-0006
Fax: 770-413-0007



Michael J. Brown
National Chicken Council
1152 15th Street, NW./#430
Washington, DC 20005
Phone: 202-296-2622
Fax: 202-293-4005



Joel Brandenberger
National Turkey Federation
1225 New York Ave, NW/#400
Washington, DC 2005
Phone: 202-898-0100
Fax: 202-898-0203