

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

(WT/DS334)

**CLOSING STATEMENT OF
THE UNITED STATES OF AMERICA
AT THE FIRST MEETING OF THE PANEL**

November 9, 2006

1. Thank you, Madam Chair, members of the Panel, and members of the Secretariat. We would like to thank you for your attention and work on this dispute, as demonstrated over the past two days. As we conclude this first panel meeting, I do not intend to re-state the arguments we made yesterday, but would like to highlight a few additional points that we observed over the past two days.

2. First, the United States believes that the discussion has further clarified that the Certificate of Control is not a document for customs purposes. An importer makes its application for a Certificate of Control to Turkey’s Ministry of Agriculture (MARA), not Turkish Customs. Second, an importer needs to apply for a Certificate from MARA, and receive approval, well before the shipment is presented to Turkish Customs. Turkey clarified that this was the case in paragraph 6 of its oral statement when it stated that “[o]nce approved, the Certificate of Control is a guarantee for the importer that all elements and requirements needed to clear customs are present and will allow importation . . . *The importer will then feel confident to conclude all necessary business engagements for purposes of importation.*” In other words, the Certificate of Control is a document that the importer needs to ensure it can obtain before it finalizes any contracts for the importation of rice. Third, when an importer has not received MARA’s approval of a Certificate of Control, the shipment will not be cleared through Customs. This is apparent from the experience of Torunlar, a Turkish rice importer which signed rice purchasing contracts prior to receiving MARA’s approval of a Control Certificate, and had to file suit in Turkish court to force MARA to issue the Certificate so it could move the rice out of bonded warehouses.

3. Turkey has argued that anyone can import rice under the TRQ but, until yesterday, ignored the fact that, as a practical matter, only millers or packers would have the ability or desire to purchase paddy rice. At yesterday's panel meeting, Turkey conceded that it was unaware of any restaurants or retailers that would want to purchase paddy rice. We agree with Turkey's assessment. Given that purchasing paddy rice is a condition for importing under the TRQ, it follows that no restaurant or retailer would utilize the TRQ. Narrowing the eligibility criterion from purchasing *rice* to purchasing *paddy rice* was thus used by Turkey to limit the class of persons or firms that would be able to import, thereby demonstrating an additional restriction on importation for purposes of Article XI:1.

4. The United States understands that Turkey intends to provide information that it has been granting Certificates of Control outside the TRQ. In this regard, the United States notes that, under the terms of a bilateral agreement between the European Union and Turkey, the European Union has an annual quota of 28,000 tons of milled rice. Under the quota, importers are permitted to import milled rice from the EU, primarily from Italy, on a duty free basis throughout the year without being subject to any of the prohibitions and restrictions that the United States has raised in this dispute. We realized that this was the case after discussing this matter with EU rice traders, who were unaware of the problems that exporters from the United States, Egypt, and other WTO Members were experiencing in shipping rice to Turkey. The United States is uncertain whether Turkey requires importers of EU rice to obtain Certificates of Control since EU rice imports are "green-lighted" under the terms of the bilateral agreement. If Turkey does

require importers of EU rice to obtain such Certificates, this raises further questions about the data presented by Turkey in Annex 20.

5. According to Turkish import data, Turkey imported approximately 25,000 and 32,000 tons of rice from the European Union in 2004 and 2005, respectively. Yet according to Annex 20, Turkey only granted Certificates of Control for approximately 7,000 tons of out of quota rice in 2004 and approximately 24,000 tons of out of quota rice in 2005. If Turkey is correct that Certificates of Control are only valid for one year – so Certificates obtained in prior years could not account for much of this apparent shortfall – this raises the question as to where EU rice imports can be found in Turkey’s chart and, if not, whether importers of EU rice need to obtain Control Certificates. The United States looks forward to Turkey’s clarification of this issue.

6. The United States would conclude by stating that, for the reasons above as well as the arguments the United States has raised in its first submission and at this week’s meeting of the panel, Turkey has not produced evidence and argument to rebut the evidence and argument of the United States. As clarified by the Appellate Body in its report in *Wool Shirts and Blouses*, Turkey has therefore failed to rebut the U.S. *prima facie* case.

7. Madam Chair, this concludes our closing statement. Again, we would like to thank you, the members of the Panel, and the Secretariat for your efforts. We look forward to answering your questions in writing and seeing you at the next meeting of the panel in January.