

[BILLING CODE 3190-W0-P]

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

**[Docket No. USTR-2010-0013]**

**WTO Dispute Settlement Proceeding Regarding United States-Measures Affecting The Production And Sale of Clove Cigarettes.**

**AGENCY:** Office of the United States Trade Representative

**ACTION:** Notice; request for comments

**SUMMARY:** The Office of the United States Trade Representative ("USTR") is providing notice that on April 8, 2010 the United States received from Indonesia a letter requesting consultations under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") regarding a provision of the Family Smoking Prevention and Tobacco Control Act (P.L. 111-31) that prohibits the production or sale in the United States of cigarettes containing certain additives, including clove. This request may be found at [www.wto.org](http://www.wto.org) in a document designated as WT/DS406/1. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before **[insert date that is 30 days after date of publication]** to be assured of timely consideration by USTR.

**ADDRESSES:** Public comments should be submitted electronically to [www.regulations.gov](http://www.regulations.gov), docket number USTR-2010-0013. If you are unable to provide submissions to [www.regulations.gov](http://www.regulations.gov), please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below), the comment contains confidential

information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

**FOR FURTHER INFORMATION CONTACT:** Richard Chriss, Chief Agriculture Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-3150.

**SUPPLEMENTARY INFORMATION:** USTR is providing notice that consultations have been requested pursuant to the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"). If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

### **Major Issues Raised by Indonesia**

On April 8, 2010, USTR received a letter from Indonesia requesting consultations regarding a provision of the Family Smoking Prevention and Tobacco Control Act (P.L. 111-31) (the "Act"), which was signed into law June 22, 2009. Indonesia alleges that, among other things, the Act bans the production or sale in the United States of cigarettes containing certain additives, including clove, but would continue to permit the production and sale of other cigarettes, including cigarettes containing menthol, beginning 90 days after the legislation was signed into law. Indonesia appears to allege that this provision of the Act are inconsistent with the General

Agreement on Tariffs and Trade 1994, Articles III:4 and XX; the Agreement on the Application of Sanitary and Phytosanitary Measures, Articles 2, 3, 5 and 7; and the Agreement on Technical Barriers to Trade, Articles 2 and 12.

### **Public Comment: Requirements for Submissions**

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to [www.regulations.gov](http://www.regulations.gov) docket number USTR-2010-0013. If you are unable to provide submissions by [www.regulations.gov](http://www.regulations.gov), please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via [www.regulations.gov](http://www.regulations.gov), enter docket number USTR-2010-0013 on the home page and click "search". The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting "Notice" under "Document Type" on the left side of the search-results page, and click on the link entitled "Submit a Comment." (For further information on using the [www.regulations.gov](http://www.regulations.gov) website, please consult the resources provided on the website by clicking on "How to Use This Site" on the left side of the home page.)

The [www.regulations.gov](http://www.regulations.gov) site provides the option of providing comments by filing in a "Type Comment and Upload File" field, or by attaching a document. It is expected that most comments

will be provided in an attached document. If a document is attached, it is necessary and sufficient to type "See attached" in the "Type Comment and Upload File" field.

A person requesting that information contained in a document submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to [www.regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, must be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. §2155 (g)(2)). If the submitter believes that information or advice may qualify as such, the submitter-

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of the cover page and each succeeding page; and
- (3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to [www.regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute. If a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute, will be made available to the public on USTR's website at [www.ustr.gov](http://www.ustr.gov), and the report of the panel, and, if applicable, the report of the Appellate Body, will be available on the website of the World Trade Organization, [www.wto.org](http://www.wto.org).

Comments will be placed in the docket and open to public inspection pursuant to 15 CFR § 206.13, except confidential business information exempt from public inspection in accordance with 19 U.S.C. § 2155(g)(2). Comments open to public inspection may be viewed on the [www.regulations.gov](http://www.regulations.gov) website.

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**Steven F. Fabry,**

**Assistant United States Trade Representative**

**for Monitoring and Enforcement**

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