

JAPAN – MEASURES AFFECTING THE IMPORTATION OF APPLES

Request by Japan for Arbitration under Article 22.6 of the DSU

The following communication, dated 29 July 2004, from the delegation of Japan to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 22.6 of the DSU.

On 30 June 2004, Japan amended and implemented its *Detailed Rules for Plant Quarantine Enforcement Regulation Concerning Fresh Fruit of Apple Produced in the United States of America* to comply with the Dispute Settlement Body (DSB) recommendations and rulings in the dispute *Japan – Measures Affecting the Importation of Apples*, adopted at the DSB on 10 December 2003.

Pursuant to Article 22.6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Japan objects to the level of suspension of concessions and other obligations under the *General Agreements on Tariffs and Trade 1994*, the *Agreement on the Application of Sanitary and Phytosanitary Measures*, and/or the *Agreement on Agriculture* proposed by the United States in its letter dated 19 July 2004 (WT/DS245/12).

Without prejudice to its position with respect to the WTO-consistency of Japan's implementing measures, which will be examined by the Article 21.5 panel requested by the United States in its letter also dated 19 July 2004 (WT/DS245/11), Japan considers that the level of suspension proposed by the United States is not equivalent to the level of the nullification or impairment of benefits accruing to the United States as a result of the alleged failure of Japan to comply with the recommendations and rulings of the DSB in the matter *Japan – Measures Affecting the Importation of Apples* (WT/DS245).

In accordance with the provisions of Article 22.6 of the DSU and as envisaged in the "Confirmed Procedures between Japan and the United States under Articles 21 and 22 of the Dispute Settlement Understanding in the follow-up to the dispute in *Japan – Measures Affecting the Importation of Apples* (WT/DS245)" (WT/DS245/10), Japan therefore requests that this matter be referred to arbitration.
