

**JAPAN – MEASURES AFFECTING THE IMPORTATION OF APPLES**

Request by Japan for Arbitration under Article 22.6 of the DSU

*Communication from the Arbitrator*

The following communication, dated 4 August 2004, has been received from the Delegation of Japan and the Delegation of the United States and addressed to Mr. Michael Cartland, Chairman of the arbitrators.

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On 19 July 2004, the United States requested that the DSB establish a Panel under Article 21.5 of the DSU and simultaneously requested authorization under Article 22.2 of the DSU to suspend concessions or other obligations with respect to Japan. Japan objected to the United States Article 22.2 request on 29 July 2004. The matter has been referred to arbitration. The United States and Japan understand that you and the other arbitrators have also accepted to serve as panellists in the Article 21.5 compliance proceeding. In the light of this development and in accordance with paragraph 6 of 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" ("Confirmed Procedures") dated 30 June 2004 (WT/DS245/10), the United States and Japan would request you and the other arbitrators to suspend the Article 22.6 arbitration proceedings until adoption by the DSB of its recommendations and rulings.

As recognized in the Confirmed Procedures, the above is without prejudice to the right of either the United States or Japan to take any action or procedural step in order to protect its rights and interests under the WTO Agreement, including the reactivation of the arbitration proceedings.

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In accordance with the joint request by the parties, the Arbitrator has suspended the arbitration proceeding.

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