

JAPAN - MEASURES AFFECTING THE IMPORTATION OF APPLES

Constitution of the Panel Established at the Request of the United States

Note by the Secretariat¹

1. At its meeting on 3 June 2002, the DSB established a panel in accordance with Article 6 of the DSU to examine the matter referred to the DSB by the United States (WT/DS245/2).

2. In accordance with Article 7.1 of the DSU, the terms of reference of the Panel are the following:

"To examine, in the light of the relevant provisions of the covered agreements cited by the United States in document WT/DS245/2, the matter referred to the DSB by the United States in that document and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in those agreements."

3. On 9 July 2002, the United States requested the Director-General to determine the composition of the Panel, pursuant to paragraph 7 of Article 8 of the DSU. This paragraph provides:

"If there is no agreement on the panelists within 20 days after the date of the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the DSB and the Chairman of the relevant Council or Committee, shall determine the composition of the panel by appointing the panelists whom the Director-General considers most appropriate in accordance with any relevant special or additional rules or procedures of the covered agreement or covered agreements which are at issue in the dispute, after consulting with the parties to the dispute. The Chairman of the DSB shall inform the Members of the composition of the panel thus formed no later than 10 days after the date the Chairman receives such a request."

4. On 16 July 2002, the Director-General accordingly determined the composition of the Panel as follows:

Chairman: Mr. Michael Cartland

Panelists: Mr. Christian Haerberli
Ms. Kathy-Ann Brown

5. Australia, Brazil, Chinese Taipei, the European Communities and New Zealand reserved their right to participate in the Panel proceedings as third parties.

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights or obligations under the WTO.