

**EUROPEAN COMMUNITIES – MEASURES AFFECTING THE APPROVAL AND
MARKETING OF BIOTECH PRODUCTS**

Recourse by the European Communities to Article 22.6 of the DSU

Constitution of the Arbitrator

Note by the Secretariat

1. At the meeting of the Dispute Settlement Body (DSB) on 8 February 2008, it was agreed that the matter raised by the European Communities in document WT/DS291/40 had been referred to arbitration as required by Article 22.6 of the DSU.

2. Article 22.6 of the DSU provides as follows:

"When the situation described in paragraph 2 occurs, the DSB, upon request, shall grant authorization to suspend concessions or other obligations within 30 days of the expiry of the reasonable period of time unless the DSB decides by consensus to reject the request. However, if the Member concerned objects to the level of suspension proposed, or claims that the principles and procedures set forth in paragraph 3 have not been followed where a complaining party has requested authorization to suspend concessions or other obligations pursuant to paragraph 3(b) or (c), the matter shall be referred to arbitration. Such arbitration shall be carried out by the original panel, if members are available, or by an arbitrator¹⁵ appointed by the Director-General and shall be completed within 60 days after the date of expiry of the reasonable period of time. Concessions or other obligations shall not be suspended during the course of the arbitration."

(original footnote) ¹⁵ The expression "arbitrator" shall be interpreted as referring either to an individual or a group.

3. The arbitration will be carried out by the original panelists as follows:

Chairperson: Mr Christian Häberli

Members: Mr Mohan Kumar
Mr Akio Shimizu
