

JAPAN – MEASURES AFFECTING AGRICULTURAL PRODUCTS

Communication from Japan and the United States

The following communication, dated 23 August 2001, from the Permanent Mission of Japan and the Permanent Mission of the United States to the Chairman of the Dispute Settlement Body is circulated at the request of these delegations.

The Governments of Japan and the United States of America wish to notify the Dispute Settlement Body (DSB) that they have reached a mutually satisfactory solution regarding the matters raised by the United States in "Japan – Measures Affecting Agricultural Products" (WT/DS76) with respect to conditions for lifting import prohibitions on the fruits and nuts at issue in the dispute (covered products). Accordingly, the United States and Japan consider that Article 21.6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes no longer requires that this item remain on the agenda of the DSB.

We confirm that Japan is modifying the rules governing the conditions for lifting import prohibitions on the covered products. The import prohibitions, and the conditions for lifting the bans, are intended to prevent the introduction to Japan of the pest codling moth through imports of the covered products. The principal features of the modifications are as follows:

1. Japan eliminated on 31 December 1999 the varietal testing requirements described in the Panel Report (WT/DS76/R) (e.g. paras. 2.22-2.24), as well as the "Experimental Guide for Cultivar Comparison Test on Insect Mortality – Fumigation", which sets forth those requirements. This was notified to the DSB by the letter dated 10 January 2000 from Ambassador Koichi Haraguchi addressed to the Chairman of the DSB.
2. Import bans on the covered products will be lifted upon implementation of methodologies agreed upon between an exporting country and Japan. Such methodologies may include quarantine treatments which provide for measurement of gas concentrations to ensure that these concentrations achieve reference levels identified during the development of the treatment. They may also include comparisons of gas concentration data for different varieties of a product to confirm that they are comparable.
3. Quarantine treatments developed for the varieties of covered products for which Japan's import ban has already been lifted conditioned upon application of those treatments may continue to be applied to those varieties.

The above modifications are without prejudice to the rights and obligations of the United States and Japan under the Marrakesh Agreement Establishing the World Trade Organization, and are not intended to prejudge the positions of the United States and Japan on the interpretation of those rights and obligations.

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