

JAPAN - MEASURES AFFECTING AGRICULTURAL PRODUCTS

Request for the Establishment of a Panel by the United States

The following communication, dated 3 October 1997, from the Permanent Mission of the United States to the Chairman of the Dispute Settlement Body, is circulated at the request of that delegation.

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Japan currently maintains a prohibition on imports of agricultural products. Specifically, for each agricultural product for which Japan requires quarantine treatment, Japan prohibits the importation of each variety of that product until the quarantine treatment has been tested for that variety. Japan's prohibition applies even though the treatment has proven effective with respect to other varieties of the same product. The relevant citations to Japan's import prohibition include the Plant Protection Law (Law No 151) enacted 4 May 1950, as amended, and the Plant Protection Law Enforcement Regulation (Ministry of Agriculture, Forestry and Fisheries Ordinance No 73) of 30 June 1950, as amended.

Japan's import prohibition has adversely affected exports of U.S. agricultural products. Japan's measures appear to be inconsistent with the obligations of Japan under the Agreement on the Application of Sanitary and Phytosanitary Measures, the General Agreement on Tariffs and Trade 1994, and the Agreement on Agriculture. The provisions of these agreements with which these measures appear to be inconsistent include, but are not limited to, the following:

- (1) Agreement on the Application of Sanitary and Phytosanitary Measures, Articles 2, 4, 5, 7 and 8;
- (2) General Agreement on Tariffs and Trade 1994, Article XI;
- (3) Agreement on Agriculture, Article 4.

On 7 April 1997, the Government of the United States requested consultations with Japan regarding these measures pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"), Article 11 of the Agreement on the Application of Sanitary and Phytosanitary Measures, Article XXIII of the General Agreement on Tariffs and Trade 1994, and Article 19 of the Agreement on Agriculture.

Consultations were held on 5 June 1997, but have failed to settle the dispute. Accordingly, the United States respectfully requests the establishment of a panel with standard terms of reference as set out in Article 7 of the DSU.

The United States further asks that this request for the establishment of a panel be inscribed on the agenda of the meeting of the Dispute Settlement Body scheduled to be held on 16 October 1997.