

JAPAN - MEASURES AFFECTING AGRICULTURAL PRODUCTS

Notification of an Appeal by Japan under
paragraph 4 of Article 16 of the Understanding on Rules
and Procedures Governing the Settlement of Disputes (DSU)

The following notification, dated 24 November 1998, sent by Japan to the Dispute Settlement Body (DSB), is circulated to Members. This notification also constitutes the Notice of Appeal, filed on the same day with the Appellate Body, pursuant to the *Working Procedures for Appellate Review*.

Pursuant to Article 16:4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Rule 20 of the Working Procedures for Appellate Review, the Government of Japan hereby notifies its decision to appeal to the Appellate Body against certain findings and the conclusions of the Panel on "*Japan - Measures Affecting Agricultural Products*" (WT/DS76/R).

The Government of Japan requests that the Appellate Body review the following errors of issues of law covered in the Panel Report and the legal interpretations developed by the Panel.

1. The Panel erred in law in finding that Japan acts inconsistently with its obligations under Articles 2:2 and 7, and paragraph 1 of Annex B of the SPS Agreement, and that the measure of Japan does not meet the requirements in Article 5:7. The findings reflect misinterpretation of those articles. In addition, the Panel interpreted erroneously and thereby failed to make an objective assessment, as required by Article 11 of the DSU, of the opinions of the scientific experts advising the Panel.
 2. The Panel also erred in law in finding that Japan acts inconsistently with its obligation under Article 5:6 of the SPS Agreement, in particular its legal interpretation of the role of the Panel in the course of establishing a *prima facie* case.
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