

**AUSTRALIA – MEASURES AFFECTING THE IMPORTATION OF
APPLES FROM NEW ZEALAND**

Notification of an Other Appeal by New Zealand
under Article 16.4 and Article 17 of the Understanding on Rules
and Procedures Governing the Settlement of Disputes (DSU),
and under Rule 23(1) of the Working Procedures for Appellate Review

The following notification, dated 13 September 2010, from the Delegation of New Zealand, is being circulated to Members.

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1. Pursuant to paragraph 4 of Article 16 and Article 17 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Rule 23(1) of the *Working Procedures for Appellate Review*, New Zealand hereby notifies its decision to appeal to the Appellate Body certain issues of law covered in the Panel Report in *Australia – Measures Affecting the Importation of Apples from New Zealand* (WT/DS367/R) ("Panel Report") and certain legal interpretations developed by the Panel.
 2. New Zealand seeks review by the Appellate Body of the Panel's legal conclusion that New Zealand's claim under Annex C(1)(a) and its consequential claim under Article 8 of the *Agreement on the Application of Sanitary and Phytosanitary Measures* ("SPS Agreement") are outside of the Panel's terms of reference.¹ This conclusion is in error and is based on an erroneous interpretation and application of Annex C(1)(a) of the *SPS Agreement* and Article 6.2 of the DSU.²

¹Panel Report, para. 8.1(f).

²Panel Report, paras. 7.1443 to 7.1490.