



**INDIA – MEASURES CONCERNING THE IMPORTATION
OF CERTAIN AGRICULTURAL PRODUCTS**

RECOURSE TO ARTICLE 22.6 OF THE DSU BY INDIA

The following communication, dated 18 July 2016, from the delegation of India to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 22.6 of the DSU.

Regarding the United States' recourse to Article 22.2 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") in the dispute India – Measures Concerning the Importation of Certain Agricultural Products (DS430), my authorities have instructed me to manifest that India has brought the measures at issue into conformity and that, therefore, the request for suspension of concessions has no legal basis. If there is a disagreement between the United States and India on this matter, the proper course of action is first to have recourse to Article 21.5 of the DSU. This has been the consistent practice of WTO Members. Members have signed sequencing agreements to ensure that this proper order be respected.

India wishes to draw the DSB attention to the recent statement of the United States itself that "the DSB cannot grant authorization to suspend concessions in any amount where the Member concerned has come into compliance".¹ India agrees with this statement. Before the DSB can grant authorization, in case of disagreement as to whether there has been compliance, the fact of non-compliance must first be established in accordance with the procedures of Article 21.5 of the DSU.

In any event, India objects to the level of suspension of concessions or other obligations under the General Agreement on Tariffs and Trade 1994 proposed by the United States in document WT/DS430/16. Should the DSB, following a proceeding under Article 21.5 of the DSU, rule that the measures taken to comply do not exist or are inconsistent with a covered agreement, then the Article 22.6 arbitrator may resume its work.

Accordingly, as required by Article 22.6 of the DSU² the matter shall be referred to arbitration.

¹ WT/DS381/32, p. 3.

² Pursuant to Article 22.6 of the DSU, "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."