

**EUROPEAN COMMUNITIES AND CERTAIN MEMBER STATES – MEASURES
AFFECTING TRADE IN LARGE CIVIL AIRCRAFT**

Notification of an Other Appeal by the United States
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 19 August 2010, from the Delegation of the United States, is being circulated to Members.

Pursuant to Rule 23 of the *Working Procedures for Appellate Review*, the United States hereby notifies its decision to appeal to the Appellate Body certain issues of law covered in the Report of the Panel in *European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft* (WT/DS316/R) ("Panel Report") and certain legal interpretations developed by the Panel.

1. The United States seeks review by the Appellate Body of the Panel's legal conclusion that the United States failed to establish that the French A380, French A340-500/600, Spanish A340-500/600, and French A330-200 launch aid constituted prohibited export subsidies within the meaning of Article 3.1(a) and footnote 4 of the *Agreement on Subsidies and Countervailing Measures* ("SCM Agreement").¹ These conclusions are in error and are based on erroneous findings on issues of law and legal interpretations, including an erroneous interpretation and application of Article 3.1(a) and footnote 4 of the *SCM Agreement*.² To the extent that the Panel's recommendation, pursuant to Article 4.7 of the *SCM Agreement*, that the subsidies found to be prohibited be withdrawn within 90 days, does not include the French A380, French A340-500/600, Spanish A340-500/600, and French A330-200 launch aid, the United States also requests that the Appellate Body review that recommendation.³

2. The United States seeks review by the Appellate Body of the Panel's legal conclusion that the United States failed to demonstrate the existence of the Launch Aid Program.⁴ This conclusion is in error and is based on erroneous findings on issues of law and legal interpretations, including the failure to examine properly whether the Launch Aid Program is a "measure" subject to challenge in WTO dispute settlement proceedings.⁵

¹See, e.g., Panel Report, paras. 7.689 and 8.3(a)(ii).

²See, e.g., Panel Report, paras. 7.675-7.688.

³See Panel Report, para. 8.6.

⁴See, e.g., Panel Report, paras. 7.579-7.580, 8.3(a)(iv).

⁵See, e.g., Panel Report, paras. 7.518-7.520, 7.531-7.532, 7.575, 7.580.