

**UNITED STATES – SECTION 306 OF THE TRADE ACT OF 1974
AND AMENDMENTS THERETO**

Communication from Japan

The following communication, dated 10 July 2000, from the Permanent Mission of Japan to the Chairman of the Dispute Settlement Body, is circulated at the request of Japan.

As indicated in my letter dated 19 June, addressed to H.E. Ms Rita D. Hayes of the United States, which was circulated on 23 June 2000 as a WTO document (WT/DS200/4), Japan believes that it does have a substantial trade interest in the matter, including that of a systemic nature, and has thus requested to be joined in the consultations on the dispute between the European Communities and the United States entitled, "United States – Section 306 of the Trade Act of 1974 and Amendments Thereto".

On 3 July, I received the response from Ambassador Hayes declining our request, stating that, "it is the view of the United States that Japan does not have a substantial trade interest in these consultations. The United States also does not understand Japan to have a direct interest in the question of the exercise of DSU Article 22 rights in this dispute."

I am aware, however, from the WTO documents already circulated, that nine other Members have also made a request to be joined in the consultations. I believe that, among them, there are a certain number of Members that have made a request, like Japan, out of their systemic interest in the current dispute. We cannot accept the US argument that Japan does not have a "direct interest in the question of DSU Article 22 rights", since the issue at hand concerns a US legislation which has a systemic implication on the exercise of DSU Article 22 rights and is not limited to a particular case. Furthermore, we cannot accept that the US brings into the question of third-party participation in Article XXII consultations, a criterion other than the one stipulated in Article 4.11 of the DSU.

Due to the systemic importance of this case, not only for Japan, but also for the other Members which have made a request, I would very much like to be informed of the responses that the US has provided in the context of each request, as well as the reasons stated therein with regard to its acceptance or refusal. I would therefore like to request you to supply us with the copies of all the US responses made to each request.

In addition to the above-mentioned request, I would like to raise a related point for your consideration. Under the current practice, only consultation requests and the requests to join the consultations are circulated, but not the actual responses to those requests. (In the past, the Secretariat had circulated memoranda with the names of the Members that had been accepted as third-party participants in the consultations, but no longer does so.) I believe that, in view of transparency, due

consideration should at least be given to the need for a requesting Member to learn about the consequences of the requests made by other Members having made a similar request.

In view of the above, I would like to suggest that consideration be given to introducing a practice under which both the requests and the responses are systemically circulated to all the Members. One idea could be that an informal consultation, chaired by you, be held to discuss this issue further and then to report back at the next regular meeting of the DSB.
