

**EUROPEAN COMMUNITIES – REGIME FOR THE IMPORTATION,
SALE AND DISTRIBUTION OF BANANAS**

Recourse by the United States to Article 22.7 of the DSU

The following communication, dated 7 April 1999, from the Permanent Mission of the United States to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 22.7 of the DSU.

Pursuant to Article 22.7 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), the United States requests authorization from the Dispute Settlement Body (DSB) to suspend the application to the European Communities (EC), and member States thereof, of tariff concessions and related obligations under the General Agreement on Tariffs and Trade 1994 (GATT), in an amount equivalent to the level of the nullification or impairment, as determined by the arbitrator pursuant to DSU Article 22.7 in "European Communities – Regime for the Importation, Sale and Distribution of Bananas".

The United States previously circulated a request to the DSB for authorization of suspension of concessions pursuant to DSU Article 22.2, in document WT/DS27/43. That request presented the relevant background concerning the EC's failure to implement the DSB's recommendations and rulings concerning the EC's banana regime, the level of nullification or impairment of benefits accruing to the United States, and the measures contemplated by the United States. On 29 January 1999, the DSB referred this matter to arbitration pursuant to DSU Article 22.6.

On 6 April 1999, the arbitrators issued their decision as follows:

"AWARD AND DECISION OF THE ARBITRATORS"

"8.1 In light of the foregoing considerations, the Arbitrators determine that the level of nullification or impairment suffered by the United States in the matter "European Communities – Import Regime for the Import, Sale and Distribution of Bananas is US\$191.4 million per year. Accordingly, the Arbitrators decide that the suspension by the United States of the application to the European Communities and its member States of tariff concessions and related obligations under GATT 1994 covering trade in a maximum amount of US\$191.4 million per year would be consistent with Article 22.4 of the DSU".

Article 22.7 of the DSU provides that the DSB shall upon request grant authorization to suspend concessions or other obligations consistent with the decision of the arbitrator. The United States therefore requests that the DSB authorize it to suspend concessions in an amount up to \$191.4 million per year, which is consistent with the arbitrator's decision.