

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

Constitution of the Panel Established at the Request of New Zealand

Note by the Secretariat

1. At its meeting on 21 January 2008, the Dispute Settlement Body (DSB) established a panel pursuant to the request of New Zealand in document WT/DS367/5, in accordance with Article 6 of the DSU (WT/DSB/M/245).
2. The Panel's terms of reference are the following:

"To examine, in the light of the relevant provisions of the covered agreements cited by New Zealand in document WT/DS367/5, the matter referred to the DSB by New Zealand in that document, and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in those agreements."
3. On 3 March 2008, New Zealand requested the Director-General to determine the composition of the panel, pursuant to paragraph 7 of Article 8 of the DSU. This paragraph provides:

"If there is no agreement on the panelists within 20 days after the date of the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the DSB and the Chairman of the relevant Council or Committee, shall determine the composition of the panel by appointing the panelists whom the Director-General considers most appropriate in accordance with any relevant special or additional rules or procedures of the covered agreement or covered agreements which are at issue in the dispute, after consulting with the parties to the dispute. The Chairman of the DSB shall inform the Members of the composition of the panel thus formed no later than 10 days after the date the Chairman receives such a request."
4. On 12 March 2008, the Director-General accordingly composed the Panel as follows:

Chairman: Mr. P.J.A. (Attie) Swart

Members: Mr. William Ehlers
Ms. Kirsten Hillman
5. Chile, the European Communities, Japan, Pakistan, Chinese Taipei and the United States have reserved their rights to participate in the Panel proceedings as third parties.