

**UNITED STATES – CONTINUED SUSPENSION OF OBLIGATIONS IN THE
EC – HORMONES DISPUTE**

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 10 June 2008, from the Delegation of the United States, is being circulated to Members.

Pursuant to Article 16 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”) and 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 on *United States – Continued Suspension of Obligations in the EC – Hormones Dispute* (WT/DS320/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 breached Article 23.1 of the DSU (e.g., Panel Report, paras. 7.250, 7.856(a)). This conclusion is in error and is based on erroneous findings on issues of law and legal interpretations, including the Panel’s findings that, by maintaining its suspension of concessions after the notification by the European Communities (“EC”) of Directive 2003/74/EC, the United States was seeking the redress of a violation of obligations under a covered agreement without having recourse to, and abiding by, the rules and procedures of the DSU (e.g., Panel Report, paras. 7.215, 7.856(a)), and the Panel’s interpretation and understanding of the legal basis for the U.S. suspension of concessions (e.g., Panel Report, paras. 7.209-7.214).

2. The United States also seeks review of the Panel’s conclusion that the United States breached DSU Article 23.2(a) (e.g., Panel Report, paras. 7.245, 7.856(b)). This conclusion is in error and is based on erroneous findings on issues of law and legal interpretations, including the Panel’s findings that the United States made a determination to the effect that a violation had occurred without recourse to dispute settlement in accordance with the rules and procedures of the DSU (e.g., Panel Report, paras. 7.239, 7.856(b)), on the basis of U.S. statements made at the meetings of the Dispute Settlement Body on November 1 and December 7, 2003 (e.g., Panel Report paras. 7.223-7.230) and/or the continuation of the U.S. suspension of concessions after the EC’s notification of Directive 2003/74/EC (e.g., Panel Report paras. 7.226, 7.230, 7.232).

3. The United States seeks review of the Panel’s suggestion that the United States should have recourse to the rules and procedures of the DSU without delay (e.g., Panel Report paras. 6.45, 8.3) and the Panel’s conclusion that it was restricted from a direct determination of the compatibility of

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Directive 2003/74/EC with the covered agreements (e.g., Panel Report paras. 7.162-7.164, 7.360, 7.855, 8.3). The suggestion and conclusion are in error and based on erroneous findings on issues of law and related legal interpretations. However, the Appellate Body would not need to review the suggestion and conclusion if it reverses the Panel's findings and conclusions on DSU Articles 23.1 and 23.2(a).
