

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

Request by the European Communities for Arbitration
under Article 22.6 of the DSU

The following communication, dated 29 January 1999, from the Permanent Delegation of the European Commission to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 22.6 of the DSU.

1. Pursuant to Article 22.6 of the DSU, the European Communities objects to the level of suspension proposed by the United States in document WT/DS27/43. It requests that the matter of whether the level of suspension proposed is, in accordance with the provisions of Article 22.7, equivalent to the level of nullification or impairment of benefits suffered by the United States, given that the Community banana import measures found to be inconsistent with WTO obligations were withdrawn by 1 January 1999 and have therefore ceased to produce their effects since the expiry of the reasonable period of time determined in accordance with Article 21, paragraph 3, and given that the new Community banana import regime in force since 1 January 1999 has not been the subject of a determination through recourse to dispute settlement, in accordance with the rules and procedures of the Memorandum of Understanding, to the effect that there has been a violation of an obligation or nullification or impairment of benefits accruing to the United States, be submitted to arbitration.

2. Moreover, the European Communities maintains that the principles and procedures set out in Article 22, paragraph 3, have not been followed.

3. Pursuant to Article 22.6, the European Communities requests that the original panel carry out the arbitration on the matters set out in paragraphs 1 and 2 above.

4. This request is without prejudice to the European Communities' position of principle concerning the conditions of application of Article 22.6 which is the subject of the request for interpretation submitted to the General Council according to which the DSB is not in a position to authorize the United States to suspend concessions or other obligations before the DSB has made a determination pursuant to Article 21.5 of the Memorandum of Understanding.
