

**UNITED STATES – IMPORT MEASURES ON CERTAIN PRODUCTS
FROM THE EUROPEAN COMMUNITIES**

Notification of an Appeal by the European Communities under
paragraph 4 of Article 16 of the Understanding on Rules
and Procedures Governing the Settlement of Disputes (DSU)

The following notification, dated 12 September 2000, sent by the European Communities to the Dispute Settlement Body (DSB), is circulated to Members. This notification also constitutes the Notice of Appeal, filed on the same day with the Appellate Body, pursuant to the *Working Procedures for Appellate Review*.

Pursuant to paragraph 4 of Article 16 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Rule 20 of the Working Procedures on Appellate Review, the European Communities hereby notify their decision to appeal to the Appellate Body certain issues of law covered in the panel report on *United States - Import Measures on Certain Products from the European Communities* (WT/DS165/R).

The European Communities request that the Appellate Body review a number of errors of law and certain legal interpretations developed by the Panel in its report. The errors of law and the legal interpretations to be reviewed include the following findings and conclusions of the Panel:

1. where it considered that the WTO-compatibility assessment of a measure taken by a Member to comply with earlier recommendations and rulings of the DSB can be made through an Article 22.6-22.7 DSU arbitration, when determining the "equivalent level of suspension of concessions", instead of having recourse to an Article 21.5 DSU panel procedure;
2. where it considered, as a matter of general rule that once a Member imposes DSB-authorised suspension of concessions or other obligations, that Member's measure is *ipso facto* WTO-compatible because it has received authorisation by reversed consensus in the DSB;
3. where it found that it was not within its mandate to assess the WTO compatibility of what it incorrectly considered "the legally distinct 19 April US action" or "measure", which imposed DSB authorised suspension of concessions or other obligations against the EC listed imports.

The above errors in law and legal interpretations affect, *inter alia*, the following portions of the Panel report that the EC requests the Appellate Body to revise and reverse: chapter V, paragraphs 5.21 and 5.22, chapter VI.C, paragraphs 6.4, 6.9 to 6.11, chapter VI.D.3, paragraphs 6.89, 6.99, 6.110 to 6.124, 6.126, 6.128 and chapter VII, paragraph 7.1 (insofar as the Panel considered that "the 3 March Measure is no longer in existence").
