

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which Nasdaq consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2002-59 and should be submitted by July 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Jill M. Peterson,

Assistant Secretary.

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**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

[Docket No. WTO/DS-245]

**WTO Dispute Settlement Proceeding
Regarding Japanese Measures
Affecting the Importation of Apples**

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on June 3, 2002, at the request of the United States, the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) established a dispute settlement panel under the Marrakesh Agreement Establishing the WTO to examine measures imposed by Japan restricting the importation of U.S. apples in connection with fire blight or the fire blight disease-causing organism, *Erwinia amylovora*. The United States alleges that these measures are inconsistent with the obligations of Japan under the General Agreement on Tariffs and Trade 1994, the Agreement on the Application of Sanitary and Phytosanitary Measures, and the Agreement on Agriculture. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before June 30, 2002, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted (i) electronically to japanapples@ustr.gov or (ii) by mail to Sandy McKinzy, Litigation Assistant, Office of Monitoring and Enforcement, Attn: Japan—Measures Affecting the Importation of Apples, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508, with a confirmation copy sent electronically or by fax to (202) 395-3640.

FOR FURTHER INFORMATION CONTACT: Juan A. Millán, Assistant General Counsel, Office of the United States Trade Representatives, 600 17th Street, NW., Washington, DC, (202) 395-3581.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel.

USTR is providing notice that on June 3, 2002, at the request of the United States, a WTO dispute settlement panel was established to examine measures imposed by Japan restricting the importation of U.S. apples in connection with fire blight or the fire blight disease-causing organism, *Erwinia amylovora*. The panel, which will hold its meetings in Geneva, Switzerland, is expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the United States

The United States has requested WTO consultations with Japan regarding its restrictions on the importation of U.S. apples in connection with fire blight or the fire blight disease-causing organism, *Erwinia amylovora*. These restrictions include, *inter alia*, the prohibition of imported apples from U.S. states other than Washington or Oregon; the prohibition of imported apples from orchards in which any fire blight is detected; the prohibition of imported apples from any orchard (whether or not it is free of fire blight) should fire blight be detected within a 500 meter buffer zone surrounding such orchard; the requirement that export orchards be inspected three times yearly (at blossom, fruitlet, and harvest stages) for the presence of fire blight for purposes of applying the above-mentioned prohibitions; a post-harvest surface treatment of exported apples with chlorine; production requirements, such as chlorine treatment of containers for harvesting and chlorine treatment of the packing line; and the post-harvest separation of apples for export to Japan from those apples destined for other destinations.

The United States contends that Japan's measures are inconsistent with the obligations of Japan under Article XI of the General Agreement on Tariffs and Trade 1994, Article 4.2 of the Agreement on Agriculture, and Articles 2.2, 2.3, 5.1, 5.2, 5.3, 5.5, 5.6, 6.1, 6.2, and 7 and paragraphs 5, 6, and 8 of Annex B of the Agreement on the Application of Sanitary and Phytosanitary Measures. Japan's measures also appear to nullify or impair the benefits accruing to the United States directly or indirectly under the cited agreements.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English.

¹¹ 17 CFR 200.30-3(a)(12).

Commenters should send either one copy by U.S. mail, first class, postage, prepaid, to Sandy McKinzy at the address listed above, or transmit a copy electronically to japanapples@ustr.gov. For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically or by fax to (202) 395-3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked BUSINESS CONFIDENTIAL in a contrasting color ink at the top of each page of each copy. For any document containing business confidential information submitted by electronic transmission, the file name of the business confidential version should begin with the characters "BC", and the file name of the public version should begin with the characters "P". The "P" or "BC" should be followed by the name of the commenter. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself and not as separate files.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as SUBMITTED IN CONFIDENCE in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on the dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Office of the United States Trade Representative, 1724 F Street, NW, Washington, DC 20508. The public file will include a listing of any comments received by

USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS-245, Japan—Measures Affecting the Importation of Apples) may be made by calling Brenda Webb, (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Bruce R. Hirsh,

Acting Assistant United States Trade Representative for Monitoring and Enforcement.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Clinton County, NY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Clinton County, New York.

FOR FURTHER INFORMATION CONTACT:

Robert Arnold, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 7th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 431-4127; or Albert H. Rascoe, Highway Superintendent, Clinton County Highway Department, 736 Route 3, Plattsburgh, NY, 12901, Telephone: (518) 565-4626; or R. Carey Babyak, Regional Director, New York State Department of Transportation, Region 7, 317 Washington Street, Watertown, NY 13601, Telephone: (315) 785-2333.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT) and the Clinton County Highway Department will prepare an environmental impact statement (EIS) on a proposal to improve a portion of County Route 57 and construct a new section of County Route 57 in Clinton County, New York. The proposed project will rehabilitate

County Route 57 for a distance of about 1 mile (1.6 km) from its intersection with US Route 9 to its' separation into East & West roads (perimeter road) and the construction of a new roadway from the separation down the center of the peninsula to the Lake Champlain Ferries Terminal (Grand Isle Ferry) at the southern end of the peninsula for a distance of about 3.3 miles (5.3 km). Improvements to the corridor are considered necessary to reduce traffic volumes on the existing East & West roads, improve safety, and address geometric deficiencies and incompatible usage of the existing Cumberland Head Road (County Route 57).

Alternatives given consideration include (1) taking no action; (2) widening and improving the horizontal and vertical geometry of the existing two-lane road; and (3) constructing a new two-lane limited access highway in a new location. Incorporated into and studied with the various build alternatives will be design variations of grade, intersecting roadways, and alignment.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Public information meetings were held in the Town of Plattsburgh on April 4 and October 17, 2000. In addition, a public hearing will be held. Public Notice was given of the time and place of those meetings and will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment. No formal NEPA scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the Clinton County Highway Department, the NYSDOT or FHWA at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 23 CFR 771.123