

**UNITED STATES – SECTION 337 OF THE TARIFF ACT OF 1930
AND AMENDMENTS THERETO**

Request for Consultations by the European Communities
and their member States

The following communication, dated 12 January 2000, from the Permanent Delegation of the European Commission to the Permanent Mission of the United States and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

On behalf of the European Communities and their member States, we hereby request consultations with the United States of America pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, Article XXII:1 of the GATT 1994 and Article 64, paragraph 1, of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (hereafter "TRIPS Agreement"), regarding Section 337 US Tariff Act (19 U.S.C. § 1337) and the related Rules of Practice and Procedure of the International Trade Commission contained in Chapter II of Title 19 of the US Code of Federal Regulations.

Section 337 US Tariff Act has already twice been examined by GATT panels, the second of which found in 1989 that important aspects of Section 337 violated the obligation to accord national treatment to imported goods under Article III of the GATT. Section 337 was amended by the 1994 US Uruguay Round Agreements Act in an attempt to bring the statute into conformity with the GATT Panel's findings. However, the Uruguay Round Agreements Act has failed to achieve this goal. Section 337, in its present form, does not eliminate the major GATT inconsistencies raised by the 1989 GATT Panel and further violates several provisions of the TRIPS Agreement.

The European Communities and their member States consider that Section 337 is not in conformity with the United States of America's obligations under the GATT 1994, notably its Article III, and under the TRIPS Agreement, notably its Articles 2 (in conjunction with Article 2 Paris Convention), 3, 9 (in conjunction with Article 5 Berne Convention), 27, 41, 42, 49, 50 and 51 TRIPS Agreement.

The European Communities and their member States consider that reference to the above legal basis does not rule out recourse to any other pertinent provision of the Agreement establishing the WTO and of the Agreements annexed to it.

The European Communities and their member States look forward to receiving your reply to this request and to fixing a mutually acceptable date for consultations.
