

# WORLD TRADE ORGANIZATION

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## UNITED STATES – SECTION 211 OMNIBUS APPROPRIATIONS ACT OF 1998

### Request for Consultations by the European Communities and their member States

The following communication, dated 7 July 1999, 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.

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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 and Article 64, paragraph 1, of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (hereafter "TRIPS Agreement"), to the extent that it incorporates by reference Article XXIII of the GATT 1994, regarding Section 211 United States Omnibus Appropriations Act (Pub. Law. 105-277 (1998)).

Section 211 United States Omnibus Appropriations Act was signed into law on 21 October 1998. As a consequence, the registration or renewal in the United States of a trademark previously abandoned by a trademark owner whose business and assets have been confiscated under Cuban law is no longer permitted. It also sets forth that no United States Court shall recognize or enforce any assertion of such rights.

The European Communities and their member States consider that Section 211 United States Omnibus Appropriations Act is not in conformity with the United States of America's obligations under the TRIPS Agreement, notably its Article 2 in conjunction with the Paris Convention, Article 3, Article 4, Articles 15 to 21, Article 41, Article 42 and Article 62.

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.

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