

WORLD TRADE ORGANIZATION

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JAPAN - MEASURES CONCERNING SOUND RECORDINGS

Request for Consultations from the European Communities

The following communication, dated 24 May 1996, from the Permanent Delegation of the European Commission and the Permanent Mission of Italy for the Council of the European Communities to the Permanent Mission of Japan and to the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

Pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"), Article 64 of the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement") in conjunction with Article XXII of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), we request consultations on behalf of the European Community and its Member States with the Government of Japan regarding the protection of sound recordings under the relevant provisions of the Japanese implementing legislation in relation to its TRIPS obligations (in particular Law No. 112 of 1994).

By virtue of the TRIPS Agreement, particularly its Articles 14.6 and 70.2 in conjunction with Article 18 of the Berne Convention (1971), Members of the World Trade Organization ("WTO") are required to protect producers and performers of sound recordings for a period of 50 years from the end of the year in which the fixation was made or the performance took place and which have not yet fallen into the public domain. In practice, this means that works which have come into existence since 1 January 1946 have to be given TRIPS level protection for the remainder of the 50 year period because the TRIPS Agreement became effective for the developed country Members of the WTO on 1 January 1996. The above-mentioned Japanese Legislation (Law No. 112 of 1994) only provides for protection of those sound recordings produced after 1 January 1971. In the view of the European Community and its Member States, the Japanese legislation is therefore not compatible with Japan's obligations under the TRIPS Agreement, since it does not extend the protection of sound recordings produced in the time period between 1 January 1946 and 1 January 1971.

We look forward to receiving your reply to the present request for consultations and to agreeing on a mutually acceptable date on which these consultations can be held.