

**EUROPEAN COMMUNITIES - PROTECTION OF TRADEMARKS AND GEOGRAPHICAL
INDICATIONS FOR AGRICULTURAL PRODUCTS AND FOODSTUFFS**

Request for Consultations by the United States

The following communication, dated 1 June 1999, from the Permanent Mission of the United States to the Permanent Delegation of the European Commission and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the European Communities pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article 64 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (to the extent that it incorporates by reference Article XXIII of the General Agreement on Tariffs and Trade 1994) regarding the protection of trademarks and geographical indications for agricultural products and foodstuffs in the European Communities.

The TRIPS Agreement obligates all Members of the World Trade Organization (WTO) to accord to the nationals of other Members treatment no less favourable than that it accords to its own nationals with regard to the protection of intellectual property. The TRIPS Agreement also requires each Member to ensure that protection for geographical indications does not undermine legal protection for pre-existing trademarks. In light of the European Communities' status as a developed Member of the WTO, the TRIPS Agreement applied to it on 1 January 1996.

The European Communities' Regulation 2081/92, as amended, does not provide national treatment with respect to geographical indications, and does not provide sufficient protection to pre-existing trademarks that are similar or identical to a geographical indication. This situation appears to be inconsistent with the European Communities' obligations under the TRIPS Agreement, including but not necessarily limited to Articles 3, 16, 24, 63 and 65 of the TRIPS Agreement.

We look forward to receiving your reply to the present request and to fixing a mutually convenient date for consultations. In accordance with Article 4.4 of the DSU, this request for consultations will be notified to the Dispute Settlement Body and the Council on Trade-Related Aspects of Intellectual Property Rights.