

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

Request for the Establishment of a Panel by the United States

The following communication, dated 18 August 2003, from the Permanent Mission of the United States to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 1 June 1999, the United States requested consultations with the European Communities ("EC") 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* ("GATT 1994")) regarding EC Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, as amended (*European Communities – Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs* (WT/DS174/1)). The United States and the EC held consultations on 9 July 1999, and thereafter, but these consultations failed to resolve the dispute.

On 4 April 2003, the United States supplemented its earlier request with a request for additional consultations with the EC pursuant to Article 4 of the DSU, Article 64 of the TRIPS Agreement and Article XXII of the GATT 1994, regarding the protection of trademarks and geographical indications for agricultural products and foodstuffs in the European Communities pursuant to Regulation 2081/92, as amended, and its related implementing and enforcement measures ("Regulation 2081/92") (*European Communities – Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs* (WT/DS174/1/Add.1)). The United States and the EC held consultations pursuant to this supplemental request on 27 May 2003, but these consultations also failed to resolve the dispute.

Regulation 2081/92 does not provide the same treatment to other nationals and products originating outside the EC that it provides to the EC's own nationals and products, does not accord immediately and unconditionally to the nationals and products of each WTO Member any advantage, favour, privilege or immunity granted to the nationals and products of other WTO Members, diminishes the legal protection for trademarks (including to prevent the use of an identical or similar sign that is likely to confuse and adequate protection against invalidation), does not provide legal means for interested parties to prevent the misleading use of a geographical indication, does not define a geographical indication in a manner that is consistent with the definition provided in the TRIPS Agreement, is not sufficiently transparent, and does not provide adequate enforcement procedures.

Regulation 2081/92 appears to be inconsistent with:

- (1) TRIPS Agreement Articles 1.1, 2.1 (incorporating by reference Article 2 of the *Paris Convention for the Protection of Industrial Property* (Paris Convention (1967))), 3.1, 4, 16.1, 20, 22.1, 22.2, 24.5, 41.1, 41.2, 41.4, 42, 44.1, 63.1, 63.3, 65.1; and
- (2) Articles I and III:4 of the GATT 1994.

Accordingly, the United States respectfully asks the DSB to establish a panel with standard terms of reference as set out in Article 7.1 of the DSU.

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