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

Request for Consultations by the United States

Addendum

The following communication, dated 4 April 2003, 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.

As you know, on 9 July 1999, the United States and the European Communities first held consultations concerning the protection of trademarks and geographical indications ("Gis") for agricultural products and foodstuffs in the European Communities pursuant to the request of the United States (WT/DS174/1). My authorities have now instructed me to request additional consultations with the European Communities 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"), and Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), regarding the protection of trademarks and geographical indications for agricultural products and foodstuffs in the European Communities ("EC"). This request supplements and does not replace the request for consultations circulated as WT/DS174/1.

EC Regulation 2081/92, as amended, and its related implementing and enforcement measures (the "EC Regulation"), limits the geographical indications that the EC will protect and limits the access of nationals of other Members to the EC GI procedures and protections provided under the Regulation. For example, the EC limits registration to geographical indications identifying goods originating in a member State of the European Union.

The EC Regulation appears to be inconsistent with the obligations of the EC under the TRIPS Agreement. Article 4 of that Agreement obligates each Member of the World Trade Organization ("WTO") to accord immediately and unconditionally to the nationals of other Members any advantage, favour, privilege, or immunity that it grants to the nationals of any other country. Article 3 of the TRIPS Agreement requires each WTO Member to accord national treatment to nationals of other WTO Members. In addition, we reiterate our concerns that the EC Regulation undermines the legal protection for trademarks in a manner that appears to be inconsistent with the EC's obligations under the TRIPS Agreement.

The EC Regulation also appears to be inconsistent with the obligations of the EC under the GATT 1994. Articles I and III of the GATT 1994 obligate each Member of the WTO to accord to imported goods of other Members most-favoured-nation and national treatment.

Accordingly, the EC Regulation appears to be inconsistent with the TRIPS Agreement, including but not necessarily limited to Articles 2, 3, 4, 16, 22, 24, 63 and 65 of the TRIPS Agreement, and Articles I and III:4 of the GATT 1994.

We look forward to receiving your reply to the present request and to fixing a mutually convenient date for consultations.
