

II. INTERPRETATION AND APPLICATION OF ARTICLE IX

A. SCOPE AND APPLICATION OF ARTICLE IX

Article IX deals with marking of origin. Concerning the work undertaken in the GATT on rules for determining the origin of goods, and on customs formalities such as certificates of origin or other documentary requirements for the importation of goods, see Article VIII. Concerning marking of products for other characteristics than origin, see Article III:4 (national treatment) and Article I:1 (most-favoured-nation treatment for all matters referred to in Article III:4).

1. Paragraph 1

The 1991 Panel Report on "United States - Restrictions on Imports of Tuna," which has not been adopted, considered a claim by Mexico that the provisions of the Dolphin Protection Consumer Information Act (DPCIA) of the United States, restricting the use on tuna products of the label "Dolphin Safe," was inconsistent with Article IX:1.

"The Panel noted that the title of Article IX is 'Marks of Origin' and its text refers to marking of origin of imported products. The Panel further noted that Article IX does not contain a national-treatment but only a most-favoured-nation requirement, which indicates that this provision was intended to regulate marking of origin of imported products but not marking of products generally. The Panel therefore found that the labelling provisions of the DPCIA did not fall under Article IX:1."¹

2. Paragraph 2

The addition of Article IX:2 was agreed during the Review Session of 1954-55. The Report of the Review Working Party on "Schedules and Customs Administration" notes that "A new paragraph is proposed for insertion in Article IX whereby the contracting parties will recognize that measures relating to marks of origin should not cause difficulties and inconveniences for other governments."²

The Panel Report on "Japan - Customs Duties, Taxes and Labelling Practices on Imported Wines and Alcoholic Beverages" examined, *inter alia*, the claim by the European Communities that wines and alcoholic beverages imported into Japan did not enjoy adequate protection as regards origin marking and that Japan had failed to carry out its obligation under GATT Article IX:6 to "cooperate ... with a view to preventing the use of trade names in such manner as to misrepresent the true origin of a product, to the detriment of such
