

VIII. CONCLUSIONS AND RECOMMENDATION

8.1

(k) the United States has not made a prima facie case in support of its claim under Article 4 of the TRIPS Agreement, with respect to the application and objection procedures;

(l) the Panel rejects the United States' claim under Article 4 of the TRIPS Agreement, with respect to the execution of the Regulation by the authorities of EC member States;

(m) the United States has not made a prima facie case that the European Communities has failed to implement its obligation under Article 22.2 of the TRIPS Agreement; and

(n) the Panel rejects the United States' claim that the Regulation is inconsistent with Article 1.1 of the TRIPS Agreement.

8.2 The Panel exercises judicial economy with respect to the United States' claims under:

(a) Article 2(1) of the Paris Convention (1967), as incorporated by Article 2.1 of the TRIPS Agreement (except as noted at paragraph 8.1(f));

(b) Article 4 of the TRIPS Agreement, (except as noted at paragraph 8.1(k) and (l));

(c) Articles 41.1, 41.2, 41.4, 42, 44.1 and 65.1 of the TRIPS Agreement; and

(d) Article I:1 of GATT 1994.

8.3 Under Article 3.8 of the DSU, in cases where there is an infringement of the obligations assumed under a covered agreement, the action is considered prima facie to constitute a case of nullification or impairment. The Panel concludes that, to the extent that the Regulation as such is inconsistent with the covered agreements, it has nullified or impaired benefits accruing to the United States under these agreements.

8.4 In light of these conclusions, the Panel recommends pursuant to Article 19.1 of the DSU that the European Communities bring the Regulation into conformity with the TRIPS Agreement and GATT 1994.

8.5 The Panel suggests, pursuant to Article 19.1 of the DSU, that one way in which the European Communities could implement the above recommendation with respect to the equivalence and reciprocity conditions, would be to amend the Regulation so as for those conditions not to apply to the procedures for registration of GIs located in other WTO Members which, it submitted to the Panel, is already the case. This suggestion is not intended to diminish the importance of the above recommendation with respect to any of the Panel's other conclusions.