

textile articles; sets; worn clothing) at an *ad valorem* rate of 41 percent in 2003, 38 percent in 2004, and 35 percent thereafter.

USTR understands that, on December 31, 2001, just before the import prohibition was set to expire, President Mubarak issued Decree No. 469 amending the customs duties applicable to a number of imported articles, including articles that enter under HS Chapters 61, 62 and 63. The amended duties were specific (*i.e.*, in Egyptian pounds (L.E.) per piece of clothing), rather than *ad valorem*. It appears that the specific duties applied by Egypt greatly exceed Egypt's bound rates of duty. Specifically, it appears that the *ad valorem* equivalent of these duties range from a low of 141 percent to a high of 51,296 percent—all well above the bound rates. USTR therefore believes that these tariffs, Decree No. 469 and any related measures are inconsistent with the obligations of Egypt under several WTO provisions, including Article II of the GATT 1994 and Article 7 of the ATC.

#### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395-3640, or transmit a copy electronically to [FR0417@ustr.gov](mailto:FR0417@ustr.gov), with "Egypt Textile Tariffs (DS305)" in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly designated as such and "BUSINESS CONFIDENTIAL" must be marked at the

top and bottom of the cover page and each succeeding page.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of the cover page and each succeeding page; and
- (3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS-305, Egypt Textile and Apparel Dispute) may be made by calling the USTR Reading Room at (202) 395-6186.

The USTR Reading Room is open to the public from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday.

**Daniel Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

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#### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS 174]

#### WTO Dispute Settlement Proceeding Regarding European Communities—Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is

providing notice that on February 23, 2004, a WTO dispute settlement panel was composed to examine the European Communities Regulations 2081/92, as amended, which governs the protection of geographical indications for agricultural foodstuffs. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 26, 2004, to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to [FR0418@ustr.gov](mailto:FR0418@ustr.gov), with "EC GI's Dispute (DS174)" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the electronic mail address above, in accordance with the requirements for submission set out below.

**FOR FURTHER INFORMATION CONTACT:** Victoria A. Espinel, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC, (202) 395-5961.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided for the establishment of a WTO dispute settlement panel. The panel, which would hold its meetings in Geneva, Switzerland, is expected to issue a report on its findings and recommendations within six to nine months after it is established.

#### Major Issues Raised by the United States

EC Council Regulation (EEC) No 2081/92 of July 14, 1992, as amended, governs the protection of geographical indications and designations of origin for agricultural products and foodstuffs. The United States believes this measure to be inconsistent with several provisions of the WTO Trade-Related Aspects of Intellectual Property Agreement, including Articles 1.1, 2.1 (incorporating by reference Article 2 of the Paris Convention for the Protection of Industrial Property (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 and 65.1.) The United States also believes that the measure is inconsistent with Articles I and III:4 of the GATT 1994.

The U.S. concerns are, *inter alia*, that 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, favor, 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.

The U.S. panel request can be downloaded from the WTO Web site, at <http://docsonline.wto.org:80/DDFDocuments/t/WT/DS/174-20.doc>.

#### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395-3640, or transmit a copy electronically to [FR0418@ustr.gov](mailto:FR0418@ustr.gov), with "EC GI's Dispute (DS174)" in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy to the electronic mail address listed above.

USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be

determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitting person believes that information or advice may qualify as such, the submitting person—

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- (3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket No. WT/DS-174, EC Geographical Indications Dispute) may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

**Daniel Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2003-14794]

#### Guidance for the Use of Binding Arbitration Under the Administrative Dispute Resolution Act of 1996

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Guidance.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA), a modal administration within the U.S. Department of Transportation (DOT), announces the availability of its Guidance for the use of binding arbitration in civil penalty forfeiture

proceedings in which the only issues remaining to be resolved are the amount of the civil penalty owed and the length of time in which to pay it. FMCSA will *not* agree to arbitrate maximum civil penalty cases issued pursuant to section 222 of the Motor Carrier Safety Improvement Act of 1999, or any cases that require interpretation of the regulations or analysis of important policy issues. The Guidance is located on the Internet at <http://www.dms.dot.gov>, under docket number FMCSA-2003-14794.

**EFFECTIVE DATE:** The Guidance becomes effective immediately upon publication in the **Federal Register**.

#### FOR FURTHER INFORMATION CONTACT:

Steven B. Farbman, (202) 385-2351, Federal Motor Carrier Safety Administration, Adjudications Counsel, 400 7th Street, SW., Washington, DC 20590. Office hours are from 9 a.m. to 5:30 p.m. e.s.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** On March 31, 2003, FMCSA published a notice in the **Federal Register** (68 FR 15549) announcing the issuance for public comment of its proposed Guidance for the use of binding arbitration as an alternative dispute resolution technique in civil penalty forfeiture proceedings in which the only issues remaining to be resolved are the amount of the civil penalty owed and the length of time in which to pay it. In response to a petition from the parties, or as a result of the Chief Safety Officer's independent review of case pleadings, the Chief Safety Officer will determine if a case is appropriate for arbitration and notify the parties in writing that the case will be referred to arbitration with the consent of both parties. A detailed explanation of the notification and consent process is provided in the Questions and Answers portion of the Guidance. Maximum civil penalty cases issued pursuant to section 222 of the Motor Carrier Safety Improvement Act of 1999 and cases requiring interpretation of the regulations or analysis of important policy issues will *not* be selected for binding arbitration. FMCSA will modify or terminate the use of binding arbitration if there is reason to believe that continuation of this process will be inconsistent with the goals and objectives of the Federal Motor Carrier Safety Regulations or Hazardous Materials Regulations.

FMCSA's Guidance, developed pursuant to the Administrative Dispute Resolution Act (ADRA) of 1996 (Pub. L. 104-320, 110 Stat. 3870 (October 19, 1996) (now codified at 5 U.S.C. 571-583)), had been published in full on the