

obligations under laws or regulations consistent with the General Agreement.⁵²

The Panel determined that Article XX(d) covers only measures to secure compliance with laws and regulations, but does not cover measures to secure compliance with the objectives of those laws and regulations.⁵³ Moreover, the measure must be able to actually enforce the obligation requiring compliance.⁵⁴

78. This is particularly relevant to this case, as the EC argues that the Order is required to secure compliance with laws or regulations relating to the prevention of deceptive practices.⁵⁵ The only underlying law or regulation that the EC has put forward is the Order itself. There are two reasons why the Order cannot be used to justify the labelling requirement. First, the prevention of deceptive practices is an objective of the Order rather than an obligation set out in the Order, and Article XX(d) does not cover measures to secure compliance with the objectives of laws or regulations. Second, as there is no underlying obligation in the Order requiring enforcement except the labelling requirement itself, the allegedly Article XX(d)-consistent measure is the very provision that is GATT-inconsistent.

79. In sum, for the EC to meet the first condition under Article XX(d), it would have to establish that there is a law or regulation that is not GATT-inconsistent *other than the GATT-inconsistent Order* that requires enforcement and with which the Order can secure compliance. The EC has not advanced, in either its first oral or written submissions, any such law or regulation.

ii. *The Order is not necessary to secure compliance*

80. Even if it could be established that there is a GATT-consistent law or regulation that requires enforcement, the Order would not be "necessary" to secure such compliance. A measure is necessary under Article XX(d) if it is the least trade-restrictive measure available to

⁵² *Ibid.*, at paragraph 5.18.

⁵³ *Ibid.*, at paragraph 5.16.

⁵⁴ *Ibid.*, at paragraph 5.18, where the Panel noted "that the anti-circumvention duties do not serve to enforce the payment of anti-dumping duties. The Panel could, therefore, not establish that the anti-circumvention duties 'secure compliance with' obligations under the EEC's anti-dumping regulations."

⁵⁵ See paragraph 110 of the EC's first written submission.