

WORLD TRADE ORGANIZATION

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EUROPEAN COMMUNITIES - TRADE DESCRIPTION OF SCALLOPS

Request for the Establishment of a Panel by Peru

The following communication, dated 14 September 1995, from the Permanent Mission of Peru to the Chairman of the Dispute Settlement Body is circulated at the request of that Delegation.

I refer to the consultations which the Government of Peru requested with the European Union concerning the trade description of pectinidae (scallops).

On 18 July 1995, the Government of Peru formally requested the European Union to hold consultations concerning the French Government Order NOR MERP9300051 A and subsequent amendments thereto laying down the official names and trade descriptions of pectinidae (scallops). Peru's request was circulated to WTO Members in document WT/DS/12/1.

Pursuant to that request, the delegations of Peru and the European Union held a consultation meeting in Geneva on 10 August in order to find a solution to this problem.

Unfortunately, to this date, when the 60-day time-limit established by Article 4.7 of the Understanding on Rules and Procedures Governing the Settlement of Disputes is about to expire, it has been impossible to arrive at a satisfactory result that would restore the competitive position of the Peruvian product by eliminating the restrictions currently imposed on it. Peru is pursuing its efforts to find a mutually satisfactory solution within the consultation period provided for by the Understanding on Rules and Procedures Governing the Settlement of Disputes.

Nevertheless, if upon the expiry of the 60-day consultation period, counting from 18 July, date of receipt of our request, this issue has not been resolved, Peru reserves the right to request, at the forthcoming meeting of the Dispute Settlement Body on 27 September, the establishment of a panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade (GATT) 1994, Article 14 of the Agreement on Technical Barriers to Trade and Articles 4 and 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

I therefore ask you to include the request of Peru for the establishment of a panel in the agenda for the meeting of the Dispute Settlement Body on 27 September 1995. To this end I enclose herewith the text of a communication requesting the establishment of the above-mentioned panel, which I shall send to the parties concerned if a mutually satisfactory solution to this matter is not found upon the expiry of the 60 days provided for consultations.

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ANNEX

I have the honour to refer to the trade description of pectinidae (scallops).

On 18 July 1995, the Government of Peru formally requested the European Union to hold consultations concerning the French Government Order NOR MERP9300051 A of 22 March 1993 and subsequent amendments thereto laying down the official names and trade descriptions of pectinidae. Peru's request for consultations was circulated to Members of the World Trade Organization (WTO) in document WT/DS12/1 of 25 July 1995.

The Government of Peru requested the above-mentioned consultations in order to restore the competitive position of the Peruvian product, whose scientific name is "argopecten purpuratus", because the above-mentioned French provisions unilaterally restrict the use of the trade description of "coquille Saint Jacques" and "noix de coquille Saint Jacques", thus affecting and belittling the Peruvian product both economically and commercially.

Pursuant to that request, the delegations of Peru and the European Union held consultations on 10 August 1995 in Geneva with a view to finding a satisfactory solution to this matter.

Unfortunately, the consultations failed to resolve the problem. In accordance with Article XXIII of GATT 1994, Article 14 of the Agreement on Technical Barriers to Trade and Articles 4 and 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, the Government of Peru requests the establishment of a panel at the next meeting of the Dispute Settlement Body scheduled for 27 September 1995.

Peru requests that the panel consider and find that the above-mentioned French Order and the subsequent amendments thereto are:

- (a) inconsistent with Articles 2 and 12 of the Agreement on Technical Barriers to Trade;
- (b) inconsistent with Articles I and III of the General Agreement on Tariffs and Trade (GATT) 1994; and
- (c) nullifying and impairing benefits accruing to Peru under the World Trade Organization.

The Government of Peru requests that the panel be established with the standard terms of reference as set out in Article 7 of the Understanding on Rules and Procedures Governing the Settlement of Disputes.

Lastly, the Government of Peru requests that a panel be established at the meeting of the Dispute Settlement Body on 27 September, the date at which the 60-day period provided for in Article 4.7 of the Understanding on Rules and Procedures Governing the Settlement of Disputes will have expired.