

**CHILE – MEASURES AFFECTING THE TRANSIT AND
IMPORTATION OF SWORDFISH**

Request for the Establishment of a Panel by the European Communities

The following communication, dated 6 November 2000, from the Permanent Delegation of the European Commission to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

The European Communities (the "EC") requests the establishment of a panel pursuant to Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article XXIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994) regarding the prohibition on unloading of swordfish in Chilean ports established on the basis of Article 165 of the Chilean Fishery Law (Ley General de Pesca y Acuicultura), as consolidated by Presidential Supreme Decree 430 of 28 September 1991 and measures of conservation and management adopted pursuant thereto, and in force on the date of adoption of Decree 598 of 15 October 1999 and extended by that Decree to the population of swordfish in areas of the high seas.

On 19 April 2000, the EC requested consultations with Chile with a view to reach a mutually satisfactory solution of the matter. The request was circulated in document WT/DS193/1 dated 26 April 2000. Such consultations, which were held on 14 June 2000 in Geneva, have allowed a better understanding of the respective positions, but have not led to a satisfactory resolution of the matter.

Community fishing vessels operating in the South East Pacific are not allowed under Chilean legislation to unload their swordfish in Chilean ports either to land them for warehousing or to tranship them onto other vessels. Consequently, Chile makes transit through its ports impossible for swordfish. This prohibition also renders impossible the importation of the affected catches into Chile.

The EC considers that the above mentioned prohibition is inconsistent with Articles V:1-3 and XI:1 of the GATT 1994 and, as a result, nullifies benefits accruing to the EC under that agreement.

The EC requests that the panel be established with the standard terms of reference as provided for in Article 7 of the DSU.

The EC asks that this request be placed on the agenda for the next meeting of the Dispute Settlement Body.
