

**EUROPEAN COMMUNITIES - TRADE DESCRIPTION
OF SCALLOPS**

(REQUEST BY CANADA)

Report of the Panel

This report of the Panel is being circulated to all Members, pursuant to the DSU. The report is being circulated as an unrestricted document from 5 August 1996 pursuant to the Procedures for the Circulation and Derestriction of WTO Documents (WT/L/160/Rev.1).

1. On 19 May 1995, the Government of Canada requested consultations with the European Communities ("EC") concerning French Order NOR MERP9300051A of 22 March 1993 and its amendments, relating to the official names and permitted trade descriptions of scallops in France. This request was made pursuant to Article XXII:1 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), Article 14.1 of the Agreement on Technical Barriers to Trade ("TBT Agreement"), and Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"). In accordance with Article 4 of the DSU, the request was circulated to Members of the World Trade Organization ("WTO") on 24 May 1995 (WT/DS7/1).

2. Pursuant to Article 4.11 of the DSU, Chile on 31 May 1995 (WT/DS7/2), and Iceland (WT/DS7/3), Japan (WT/DS7/4) and Peru (WT/DS7/5) on 2 June 1995, requested to be joined in the consultations requested by Canada. On 23 June 1995, the EC informed the Dispute Settlement Body ("DSB") that it had accepted these requests (WT/DS7/6). Consultations were held in Geneva on 19 June 1995.

3. Consultations failed to settle the dispute and, on 7 July 1995, Canada requested the DSB to establish a panel, at its next meeting, pursuant to Article XXIII of GATT 1994, Article 14 of the TBT Agreement and Articles 4 and 6 of the DSU (WT/DS7/7 and Corr. 1). Canada requested that the panel consider and find that the French Order and subsequent amendments are:

- (a) inconsistent with Article 2 of the TBT Agreement;
- (b) inconsistent with Articles I and III of GATT 1994; and
- (c) nullifying and impairing benefits accruing to Canada under the WTO Agreement.

4. On 19 July 1995, pursuant to the request made by Canada, the DSB established a panel with standard terms of reference. The terms of reference of the Panel are the following:

"To examine, in the light of the relevant provisions of the covered agreements cited by Canada in document WT/DS7/7, the matter referred to the DSB by Canada in that document and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in those agreements".

5. Australia, Chile, Iceland, Japan, Peru and the United States reserved their rights to participate in the Panel proceedings as third parties. All these Members, except Australia, attended the session for third parties and submitted written communications to the Panel.

6. The parties to the dispute agreed on 6 September 1995 to the following composition of the Panel:

Chairman: Mr. Michael Cartland
Members: Mr. Peter Palecka
Mrs. Barbara Rigassi.

7. Peru and Chile requested consultations with the EC concerning the same French Order, on 18 and 24 July 1995, respectively. At its meeting on 11 October 1995, in accordance with Article 9 of the DSU, the DSB established a single panel on the same matter pursuant to the requests of Peru (WT/DS12/7) and Chile (WT/DS14/6). At that DSB meeting, Peru and Chile asked for the application of Article 9.3 of the DSU so that the same panelists as those serving in this dispute between the EC and Canada (WT/DS7) would also serve on the single Panel established pursuant to the requests of

Peru and Chile. On 12 October 1995, the panelists serving on the Panel between the EC and Canada (WT/DS7) agreed to act as panelists on the Panel established for the dispute between the EC and Peru and Chile. The Panel report of this related dispute is contained in WT/DS12/R, WT/DS14/R.

8. The Panel met with the parties on 12 and 13 October 1995, on 12 December 1995 and on 5 February 1996. It met with interested third parties on 13 October 1995.

9. On 6 February 1996, pursuant to Article 12.9 of the DSU, the Chairman of the Panel informed the DSB that the Panel would not be able to issue its report within six months (Article 12.8 of the DSU). The reasons for that delay are provided in document WT/DS7/9.

10. The Panel issued the Descriptive Part of its report on 19 February 1996. It issued the Interim Report on 14 March 1996.

11. On 2 April 1996, at the request of the EC, the Panel held a review meeting with the parties pursuant to Article 15.2 of the DSU, to hear the comments of the parties on the Panel's Interim Report.

12. On 16, 19 and 29 April 1996, the parties requested the Panel to postpone issuance of the Final Report to the parties.

13. On 2 May 1996, the parties again requested the Panel to postpone issuance of the Final Report to the parties until 10 May 1996 (WT/DS7/10).

14. On 10 May 1996, the parties requested the Panel to suspend the Panel proceedings in accordance with Article 12.12 of the DSU because they were discussing the terms of a mutually agreed solution (WT/DS7/11).

15. On 5 July 1996, pursuant to Article 3.6 of the DSU, the parties notified the DSB and the relevant Councils and Committees that they had reached a mutually agreed solution, which was circulated as document WT/DS7/12 on 19 July 1996.

16. The Panel takes note of this mutually agreed solution between the parties to the dispute and of the provisions of Article 12.7 of the DSU which provide that "where a settlement of the matter among the parties to the dispute has been found, the report of the panel shall be confined to a brief description of the case and to reporting that a solution has been reached". Accordingly, the Panel concludes its work by reporting that a mutually agreed solution to this dispute has been reached between the parties.