

EUROPEAN COMMUNITIES - TRADE DESCRIPTION OF SCALLOPS

Request for the Establishment of a Panel by Peru

The following communication, dated 18 September 1995, from the Permanent Mission of Peru to the Chairman of the Dispute Settlement Body is circulated at the request of that Delegation.

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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 W/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.