

AUSTRALIA - MEASURES AFFECTING IMPORTATION OF SALMON

Request for the Establishment of a Panel by Canada

The following communication, dated 7 March 1997, from the Permanent Mission of Canada to the Chairman of the Dispute Settlement Body, is circulated at the request of that delegation.

On 5 October 1995, the Government of Canada requested consultations with the Government of Australia regarding certain Australian measures prohibiting the importation of fresh, chilled or frozen salmon. In accordance with Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") that request was notified to the Dispute Settlement Body ("DSB"), the Council for Trade in Goods, and the Committee on Sanitary and Phytosanitary Measures. The request was circulated to members of the World Trade Organization on 11 October 1995 (WT/DS18/1). Australia accepted Canada's request and consultations were held on 23 and 24 November 1995, in Geneva, with a view to reaching a satisfactory resolution of the matter.

The Australian Government's measures prohibiting the importation of fresh, chilled or frozen salmon (the "Australian measures" or the "measures") include Quarantine Proclamation 86A, dated 19 February 1975, and any amendments or modifications to it. The measures adversely affect the importation of Canadian salmon. The Government of Canada requested consultations with a view to regaining the benefits accruing to it that have been nullified or impaired by the measures. The consultations failed to settle the dispute, and on 20 December 1996, the Government of Australia announced that it would maintain the measures in force. There are no indications to suggest that further consultations are likely to be productive.

Pursuant to Article XXIII of the General Agreement on Tariffs and Trade 1994 and Article 11 of the Agreement on the Application of Sanitary and Phytosanitary Measures, and Articles 4 and 6 of the DSU, Canada hereby requests that a Panel be established at the next meeting of the DSB scheduled for 20 March 1997.

Canada requests that the Panel consider and find that:

- (a) The Australian measures are inconsistent with:
 - (i) the Agreement on the Application of Sanitary and Phytosanitary Measures, and in particular Articles 2, 3 and 5 thereof;
 - (ii) the General Agreement on Tariffs and Trade 1994, and in particular Articles XI and XIII thereof;

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- (b) the application of the Australian measures nullifies or impairs the benefits accruing to Canada pursuant to the Agreement Establishing the World Trade Organization.

Canada requests that the Panel be established with the standard terms of reference set out in Article 7 of the DSU. Canada further requests that this request for the establishment of a Panel be inscribed on the agenda of the meeting of the DSB scheduled for 20 March 1997.