

EUROPEAN COMMUNITIES - TRADE DESCRIPTION OF SCALLOPS

Request for Consultations by Peru

The following communication, dated 18 July 1995, from the Permanent Mission of Peru to the Permanent Delegation of the European Commission is circulated in accordance with Article 4.4 of the DSU.

In the name of the Government of Peru, I have the honour to request consultations with the European Union concerning the French Government Order NOR MERP9300051 A of 22 March 1993 and subsequent amendments laying down the official names and the trade description of pectinidae (scallops).

This request is made pursuant to Article XXII:1 of the General Agreement on Tariffs and Trade (GATT) 1994, Article 14.1 of the Agreement on Technical Barriers to Trade, and Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the World Trade Organization.

The aim of the French Order and its subsequent amendments is to restrict the use of the trade description "coquille Saint-Jacques" or "noix de coquille Saint-Jacques" to a specified number of species of the genus pectinidae. For many years, the Peruvian scallop "concha de abanico" whose scientific name is Argopecten purpuratus has been imported into France and sold on the French market under the trade description "coquille Saint-Jacques" or "noix de coquille Saint-Jacques". The most recent amendment to the above-mentioned French Order permits the trade description "Petoncle (Saint-Jacques)" to be used for the Peruvian product up to 31 December next. The same amendment stipulates that, from 1 January 1996, only the trade description "Petoncle" may be used for the Peruvian product.

These provisions will have an adverse effect on trade in the Peruvian "concha de abanico" since restricting that product to the trade description "Petoncle" means linking it to a product of lower quality and price on the French market, thereby causing obvious economic injury. The French measures are unjustified, not only because they are contrary to traditional trade practice but also because the consumer makes no distinction between the Peruvian Argopecten purpuratus and other scallops which can be called "Saint-Jacques", there being in fact no difference in terms of size, texture, appearance or use.

Peru considers that these French measures are inconsistent with the provisions of the Agreement on Technical Barriers to Trade (Articles 2.1, 2.2 and 12) and Articles I and III of the GATT 1994.

The French Order and its amendments cannot be justified under the WTO Agreement since they nullify and impair Peru's rights within that Organization.

Since 1993, Peru has on numerous occasions expressed its concern about this matter to the French Government without as yet having received a satisfactory reply.

In addition, Peru has associated itself with the consultations with the European Union concerning the French Order requested by Canada under Article XXII of the GATT 1994.

Peru hopes that the consultations requested will be held as soon as possible with a view to arriving at a satisfactory solution which will restore the long-standing and traditional competitive position of the Peruvian product on the French market.