

## EUROPEAN COMMUNITIES - TRADE DESCRIPTION OF SCALLOPS

### Request for Consultations by Chile

The following communication, dated 24 July 1995, from the Permanent Mission of Chile to the Permanent Delegation of the European Commission is circulated in accordance with Article 4:4 of the DSU.

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In the name of the Government of Chile, 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 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 trade description which can be used in France for marketing Chilean scallops, whose scientific name is Agropecten purpuratus. The most recent amendment permits the use of the trade description "pétoncle (Saint-Jacques)" up to 31 December 1995, but from that date onwards only the description "pétoncle" will be allowed. The requirement that the description of Chilean scallops must include the word "pétoncle" entails economic injury since on the French market the word "pétoncle" is associated with a product of lower quality and price.

Chile considers that this measure is unjustified, both because it is contrary to traditional trade practice which has allowed the frozen Chilean product to be sold as "noix de Coquille St. Jacques" or "noix de St. Jacques" and because the consumer is unable to distinguish between Agropecten purpuratus and a mollusc of the Pecten species, there being no difference between the two products with respect to their physical (size, colour and appearance) or organoleptic (taste, smell, texture, etc.) characteristics or use.

Accordingly, it is considered that the French measures are inconsistent with the provisions of the Agreement on Technical Barriers to Trade (Articles 2.1 and 2.2) and with Articles I and III of the GATT 1994, nullifying and impairing the benefits accruing to Chile under the WTO.

Chile has made numerous representations to both the French and the Community authorities in an unsuccessful effort to settle the issue at the level of the French Government or the European Commission.

Moreover, given its substantial stake in the export of scallops to France, Chile associated itself with the consultations requested by Canada under Article XXII, which were held on 19 June 1995.

The Government of Chile hopes that these consultations will lead to a mutually satisfactory solution and requests that they be held as soon as possible.