

**EUROPEAN COMMUNITIES – CERTAIN MEASURES PROHIBITING
THE IMPORTATION AND MARKETING OF SEAL PRODUCTS**

Request for Consultations by Canada

The following communication, dated 25 September 2007, from the delegation of Canada to the delegation of the European Communities and to the Chairman of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

Pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, Article XXII of the *General Agreement on Tariffs and Trade 1994* (GATT 1994) and Article 14 of the *Agreement on Technical Barriers to Trade* (TBT Agreement), the Government of Canada hereby requests consultations with the European Communities (EC) concerning certain measures taken by Belgium and the Netherlands regarding the importation, transportation, manufacturing, marketing, and sale of seal products. These measures include:

- *la Loi relative à l'interdiction de fabriquer et de commercialiser des produits dérivés de phoques*, F. 2007 – 1590 [C – 2007/11138], 16 March 2007, (the "Belgian trade ban");
- *l'Arrêté ministériel modifiant l'arrêté ministériel du 15 septembre 1995 soumettant à licence l'importation de certaines marchandises*, F. 2004 – 1983 [C – 2004/11258], 28 May 2004 (the "Belgian import licensing requirement"); and,
- Articles 5 and 13 of the Dutch *Flora and Fauna Act*, when read in conjunction with the *Decree of 4 July 2007 amending the Designation of Animal and Plant Species (Flora and Fauna Act) Decree and the Protected Animal and Plant Species (Exemptions) Decree in relation to the ban on trade in products originating from harp seals and hooded seals* (the "Dutch trade ban").

The Belgian trade ban prohibits the preparation for sale or delivery to consumers, transport for sale or delivery, possession for the purpose of sale, importation, distribution and transfer of seal products. The Belgian import licensing requirement imposes a requirement that an import licence be issued for the importation of seal products.

The Dutch trade ban prohibits the importation of and trade in all harp seal and hooded seal products regardless of the animal's age. This includes a prohibition against asking for the sale, the buying or acquisition, the holding for sale or in stock, the selling or offering for sale, the transportation or offering for transport, the delivery, the use for commercial profit, the renting or hiring, the exchange or offer in exchange, the trade or exhibiting for commercial purposes or the bringing or possessing within or outside the territory of the Netherlands, of harp seal and hooded seal products.

These measures appear to be inconsistent with the EC's obligations under GATT 1994 and the TBT Agreement. The provisions of these Agreements with which the measures appear to be inconsistent include:

- (i) Articles 2.1 and 2.2 of the TBT Agreement
- (ii) Articles I:1, III:4, V:2, V:3, V:4 and XI:1 of GATT 1994.

These violations appear to nullify or impair the benefits accruing to Canada under those Agreements. Moreover, these measures appear to nullify or impair the benefits accruing to Canada in the sense of Article XXIII:1(b) of GATT 1994.

Canada reserves the right to raise additional claims and legal matters regarding the measures at issue during the course of consultations.

Canada looks forward to receiving the reply of the EC to this request and welcomes any suggestions that it might wish to make concerning the date on which these consultations could take place, and the location of the consultations.
