

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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EEC - FRENCH REGULATIONS CONCERNING THE TRADE
DESCRIPTION OF SCALLOPS

Request for Consultations under Article XXII:1 by Canada

The following communication, dated 18 August 1993 and addressed to the Director-General, has been received from the Permanent Mission of Canada, with the request that it be circulated in accordance with paragraph C.3 of the CONTRACTING PARTIES's 1989 Decision on Improvements to the GATT Dispute Settlement Rules and Procedures (BISD 36S/62).

Canada has sent to the Commission of the European Communities a letter dated 18 August 1993 requesting consultations under Article XXII:1 of the General Agreement with a view to the full restoration of its long-standing competitive position on the French market for the pectinidae (scallops) called "noix de coquille Saint-Jacques" in France.

The issue concerns the effects of the measures taken by the French Government to restrict the trade description that may be used in France for the marketing of the Canadian scallops whose scientific name is Placopecten magellanicus. The latest of these measures is Order NORMERP9300051A of 22 March 1993 issued by the French Ministry of Agriculture. Under this Order, after 31 December 1993 it will be forbidden to use the expression "noix de Saint-Jacques" which is currently allowed for the trade description of the meat of the Canadian scallops. This prohibition will significantly weaken the competitive position of the Canadian product on the French market and reduce the volume and value of Canadian trade. Canada is one of the main exporters of these scallops to France; in 1992, its sales of these products totalled some FF 60 million or 10.6 per cent of total French imports.

French importers have already cut back their orders of Canadian scallops as a result of the Order. Although the restriction on the trade description will not come into effect for several months, importers consider that the Order makes the Canadian product less attractive to French consumers. This measure is unjustified as it is contrary to traditional trade practice and the consumers make no distinction between Placopecten magellanicus and the other pectinidae that may be called "noix de coquille Saint-Jacques".

The commercially important right to use the description "noix de Saint-Jacques" was adopted after the Canadian scallops were excluded from the category of products that may be called "noix de coquille Saint-Jacques" for trade purposes. The order of 22 March 1993, which will prohibit the use of the description "noix de Saint-Jacques" for the Canadian scallop, further aggravates the situation in which the treatment afforded to the Canadian product under the regulations is already less favourable than that afforded to like products coming from France or other countries, which is contrary to the European Community's obligations under the General Agreement.

The elimination of so important a supplier as Canada in the "top of the range" sector of the French market for scallops clearly constitutes protection for French suppliers. Furthermore, the scallops of the other contracting parties may continue to be described as "noix de coquille Saint-Jacques" whereas the like Canadian product does not have this privilege.

This discriminatory treatment seriously hinders Canadian trade in scallops with France. The Government of France has said that the purpose of the Order is to reflect scientific considerations and provide fuller and more accurate information for consumers. However, the terminology in question is not scientific and the change in description will confuse consumers, who have long been used to finding Canadian scallops under descriptions containing the term "Saint-Jacques". Hence, the need for the new treatment has not been established, and the reasons given to support it are clearly not valid.

Furthermore, the European Community did not make the effort to give advance notification of the Order in conformity with the "Understanding Regarding Notification, Consultation, Dispute-Settlement and Surveillance" of 28 November 1979. Prior notification would have enabled Canada to submit its observations and discuss the measure before it was introduced.

The Government of Canada has approached the Government of France to request it to restore the right to use the term "Saint-Jacques" in the trade description of the Canadian scallops. It is asking for the French Order to be brought into conformity with the General Agreement and for the restoration of the benefits accruing to Canada under the General Agreement which have been nullified or impaired by the French Order. Accordingly, the Government of Canada requests the restoration of the right of traders to use the trade description associated with high-quality products on the French market and to market in France the meat of the Canadian scallops concerned under the description "noix de coquille Saint-Jacques".