

I. BACKGROUND

1. In Canada's view the Order is inconsistent with the WTO Agreement.
2. When the Order entered into force on March 28, 1993, Canada was concerned that the labelling requirement was inconsistent with the GATT 1947. Canada promptly advised France of its concerns, noting that the Order would have an unnecessary and unjustifiable adverse effect on imports of Canadian scallops into France.
3. Following unsuccessful attempts to resolve the issue bilaterally, Canada requested GATT 1947 Article XXII:1 consultations with the European Community (the "EC") on August 16, 1993. The consultations were held on September 20, 1993. The EC defended the Order on the grounds that, in the EC's view, the Order did not discriminate between countries, it corresponded to "correct" linguistic usage, and was intended to provide consumers with accurate information.
4. Canada continued to seek a bilateral resolution of the matter with France after the 1993 consultations. French amendments to the Order in December 1993 and October 1994 ultimately exacerbated rather than resolved the matter. When it became clear that the matter could not be resolved bilaterally, Canada requested consultations with the EC by letter dated May 19, 1995, pursuant to GATT Article XXII:1, Article 14.1 of the TBT Agreement and Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (the "DSU"). The consultations concerning the Order were held on June 19, 1995.²
5. On July 19, 1995 the Dispute Settlement Body (the "DSB") agreed to establish a panel on the matter.
6. As determined by the DSB on July 19, 1995, the terms of reference for the Panel are:

"To examine, in the light of the relevant provisions in the Marrakesh Agreement establishing the World Trade Organization, including the General Agreement on Tariffs and Trade 1994 and the Agreement on Technical Barriers to Trade, the matter referred to the Dispute Settlement Body by Canada in document WT/DS7/7 and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in those agreements."³

² The following WTO Members joined the consultations: Chile, Iceland, Japan and Peru.

³ Minutes of the Meeting of the DSB on July 19, 1995. WT/DSB/M/6 (August 28, 1995).
