



30.8.2012

NOTICE TO MEMBERS

Subject: Petition 1044/2011 by J. S. (British), on behalf of Humane Society International, with 22 signatures, on the Canadian Government's recommendation in connection with a WTO mediation council concerning the enforcement of Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products

1. Summary of petition

The petitioner notes that both Canada and the CETA (Canada-European Union: Comprehensive Economic and Trade Agreement) dispute Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products, which they claim is in breach of the WTO rules, and that the Canadian Government has requested the appointment of a WTO mediation council. She therefore requests that the European Parliament take the necessary measures with the aim of upholding the ban on trade in seal products.

2. Admissibility

Declared admissible on 13 January 2012. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 30 August 2012

The Commission would like to recall that this dispute concerns the adoption of Regulation (EC) 1007/2009 of the European Parliament and of the Council on trade in seals products, as well as implementing Commission Regulation (EU) 737/2010, which prevent the import, export, placing on the market or transit of seals products.

As mentioned in the petition, Canada has on 11 February 2011 requested the establishment of a WTO panel to hear a dispute against the European Union regarding the Regulations at issue. Although, in requesting a WTO panel, Canada has exercised a right under Article 6 of the WTO Dispute Settlement Understanding, this does not suggest that Canada will succeed in its challenge. The Commission considers this to be the case because the regulations in question are non-discriminatory and pursue legitimate objectives that lie at the heart of European values in a non-protectionist manner. The WTO covered agreements, in turn, accord sufficient regulatory space to accommodate measures designed to reflect genuine concerns of European Union citizens. The European Commission will, as always, defend this legislation vigorously.

The issue of the WTO seals products dispute has not been raised by either party in the framework of the Comprehensive Economic Trade Agreement (CETA) negotiations. Thus, the European Commission has not requested Canada to withdraw its WTO challenge, nor has Canada requested the European Union to repeal or amend legislation. Nor will the provisions agreed upon in CETA have any such effect.

As a general matter, the Commission does not consider it advisable to request the withdrawal of any particular dispute settlement proceedings. This could be understood as implying a weakness as regards the defence of such a case. In this case there is no need to offer a concession as regards Canada in order to avoid the risk of litigation against a measure which the EU considers is WTO consistent. Such an approach would prejudice the ability of the Union to ensure that its rights, and the benefit they bring to European citizens, are respected.

Finally, it should be recalled that Norway has also requested the establishment of a panel with respect to the same Regulations. The two disputes are legally distinct such that an eventual acceptance by Canada to withdraw its challenge would have no similar effect on Norway's. Therefore, demanding from Canada to withdraw its WTO dispute would prove largely ineffective, while possibly affecting the package of rights the European Union is carefully negotiating with Canada under CETA.

For all of these reasons, while understanding the motivations behind the petition, the Commission takes the view that it would be unadvisable for the EU to follow the suggestion in the petition.