



## INTERNAL TRADE SECRETARIAT

### News Release

#### **Release of Panel Report regarding a dispute brought forward by Alberta against Québec under the *Agreement on Internal Trade***

**August 22, 2005** – The Panel report in the dispute initiated by the Government of Alberta with respect to Québec's *Regulation Respecting Dairy Product Substitutes* (the "Regulation") was released to the public today. Alberta, joined by the governments of Manitoba and Saskatchewan, alleged that Québec's Regulation, which prohibits the sale in Québec of margarine coloured the same pale yellow as butter is inconsistent with Québec's obligations under Chapter Four (General Rules) and Chapter Nine (Agriculture and Food Goods) of the *Agreement on Internal Trade* (AIT).

The Panel issued its report to the disputing Parties on June 23, 2005. The full report can now be found on the AIT website: [www.intrasec.mb.ca](http://www.intrasec.mb.ca). The Panel was comprised of: Bill Norrie, Q.C. of Winnipeg (Chair), Lynne Burnham, Q.C. of Saint John and Chris Thomas, Q.C. of Vancouver. Under the terms of the AIT, the Panel was mandated to examine whether the matters at issue are inconsistent with the AIT. The Panel held a public hearing on the dispute on May 9, 2005 in Montréal.

The Panel addressed the following issues:

- Whether the Regulation falls under the scope and coverage of Chapter Nine of the AIT?
- In maintaining the *Regulation Respecting Dairy Product Substitutes*, is Québec in breach of its obligations under Chapter Four of the AIT? and
- Is the Regulation justified to achieve a legitimate objective as defined by Article 404 (Legitimate Objectives) of the AIT?

With respect to these issues, the Panel found:

- Québec's Regulation falls within the scope and coverage of Chapter Nine;
- Québec's Regulation contravenes Article 401 (Reciprocal Non-Discrimination) of the AIT;
- There is no breach of Article 402 (Right of Entry and Exit);
- Québec's Regulation operates to create an obstacle to internal trade contrary to Article 403 (No Obstacles);
- Québec has failed to demonstrate that the Regulation meets the requirements of Article 404 (Legitimate Objectives). It cannot be justified; and
- Québec's Regulation has impaired and caused injury to margarine producers and their upstream suppliers.

The Panel therefore recommended that:

- Québec repeal the Regulation forthwith, and in any event no later than September 1, 2005.
- Any action by Québec and implementation of the Panel's recommendations must allow for the sale of margarine coloured the same pale yellow hue as butter in Québec no later than September 1, 2005.

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**Background**

The AIT came into effect July 1, 1995 in order to reduce and eliminate, to the extent possible, barriers to the free movement of persons, goods, services and investments within Canada and to establish an open, efficient and stable domestic market. Through the AIT, governments are working to remove existing interprovincial trade barriers, prevent the establishment of new barriers and harmonize interprovincial standards.

The AIT provides mechanisms for the resolution of disputes related to internal trade matters. Access to the dispute resolution mechanisms is open to governments, to individuals and to businesses. This was the seventh dispute Panel established under the dispute resolution provisions of the AIT.

The AIT encourages the resolution of disputes through consultations between the Parties and makes provision for progressive steps in the dispute avoidance and resolution process. The first step is the consultations process within each chapter of the AIT. This process must be exhausted before moving into the general dispute resolution procedures which provide for: 1) further consultations between the Parties; 2) a request for the assistance of the committee of federal/provincial/territorial Ministers responsible for Internal Trade and finally, 3) the establishment of a dispute resolution panel.

A panel is composed of three members selected from a roster of panellists. Parties to the AIT can nominate up to five members to the roster. Each disputing party selects one panellist from the roster that it has not nominated to the roster. The two designated panellists then select a chair from the roster.

Panel hearings are public. Documents submitted to the panel are public except when they are commercially sensitive or are otherwise protected by law. The panel is to produce its report within 45 days of the last hearing day.