

The Standing Senate Committee on Fisheries and Oceans

RESPONSE

1. What has Global Affairs Canada identified as the most common trade barriers affecting Canadian seal products that are ready for export? Do these barriers differ for products sourced by Indigenous and non-Indigenous seal harvesters?

Regarding the European Union, Global Affairs Canada has been made aware of concerns regarding the administration of the Indigenous Exemption of the EU Regulation on Trade in Seals Products. The issues identified include onerous reporting requirements imposed by the EU's certification process (e.g., lack of automatic recognition, using more recent technology, like QR codes, instead of attesting paper documents). The recognized bodies under the Indigenous Exemption (i.e. the governments of Nunavut and the Northwest Territories) have shared these concerns with the EU through various avenues including through formal submissions. Such submissions have informed the Commission's most recent report ([link available here](#)) on the implementation of the Regulation, released in October 2023. This report concludes that: *"the recognized bodies in Canada consider that the Regulation is perceived in the EU as a total ban on trade in seal products, that the "Inuit or other indigenous communities" exception is not sufficiently well known in the EU, and that this has an impact on the economic development of their Inuit/Inuvialuit communities."* The report also states that the European Commission will launch an evaluation of the EU Regulation on Trade in Seal Products and of the Seal Pups Directive, *"to assess their functioning, effectiveness and impact against their objectives, and whether they remain fit for purpose."* Global Affairs Canada will closely monitor.

2. What steps has Global Affairs Canada taken in the last five years to reduce trade barriers affecting Canadian seal products ready for export?

In all its trade negotiations, the Government of Canada seeks to provide Canadians with increased preferential access to markets which benefit Canadian exporters of both goods and services. This includes addressing both tariff and non-tariff issues and is equally applicable to exporters of seal products. Canadian trade negotiators take into account feedback obtained from Canadians during public consultations. This includes feedback received during formal public consultations on priorities for trade negotiations (such as the Gazette process), as well as through ongoing engagement conducted with a broad range of stakeholders and partners, throughout the negotiating process.

As part of the Government of Canada's inclusive approach to trade, Global Affairs Canada is pursuing free trade agreement provisions on Trade and Indigenous Peoples that seek to ensure that Indigenous peoples in Canada have access to the benefits and opportunities that flow from international trade and investment.

The Trade Commissioner Service has delivered 104 services to Canadian seal products exporters since 2018, including advice and assistance on market access issues. 48 of those services were delivered in the past two years. 14 clients and five partner organizations made the requests.

In addition to working directly with individual Canadian exporters abroad, Global Affairs Canada also engages in targeted advocacy abroad to support the seal products industry as a whole. Advocacy messaging in support of seal products exports has been delivered in a number of markets by various

means, including via public events, local media and during closed-door discussions with foreign governments.

3. What steps has Global Affairs Canada taken in the last five years to work towards the easing or outright elimination of bans on the import of Canadian seal products, such as those in place in the United States and the European Union?

As to U.S. restrictions on the importation of seal products, Global Affairs Canada takes this issue seriously. The Department has previously made representations to the U.S. Government, but to no avail. GAC continues to engage the U.S. Government concerning specific aspects of the U.S. *Marine Mammal Protection Act* which impact Canada's fish and seafood export sector.

Regarding market access to the European Union, Global Affairs Canada provides information and support to assist Canadian exporters to utilize the limited exceptions to the EU ban set out in the EU's amended regulation (2015/1775).

Regarding market access to Taiwan, Global Affairs Canada and the government of Newfoundland and Labrador are working with Taiwan's Ocean Affairs Council to certify that specific quantities or shipments of seal oil have been harvested by Indigenous people. Taiwan requires this certification before allowing market access.

4. What additional steps or actions can Global Affairs Canada take to reduce or eliminate trade barriers affecting Canadian seal products ready for export?

Three supports Global Affairs Canada (GAC) can offer export-ready Canadian seals products companies:

- First, the CanExport program provides eligible Canadian small and medium-sized enterprises (SMEs) with co-funding of up to \$50,000 per company to help them break into new international markets. The program is designed not only to diversify Canadian export markets, but also to foster a more inclusive approach to trade for all Canadians, including Indigenous exporters.
- Second, as part of the Government of Canada's inclusive approach to trade, GAC is pursuing free trade agreement provisions on Trade and Indigenous Peoples that seek to ensure that Indigenous peoples in Canada have access to the benefits and opportunities that flow from international trade and investment.
- Third, GAC has dedicated funding and programs in place to support business development activities abroad for Indigenous-led companies. In FY2023-2024, the Trade Commissioner Service supported approximately 20 initiatives tailored for Indigenous businesses and entrepreneurs. The Trade Commissioner Service also has dedicated Champions in its Regional Offices across Canada who provide region-specific support to Indigenous entrepreneurs seeking to export abroad.

5. Was the decision to dispute the European Union's ban at the World Trade Organization in 2009 political or did specific criteria guide the decision to initiate the dispute? If the latter, what specific criteria were used?

A WTO dispute arises when a country adopts a trade policy measure or takes some action that one or more WTO members considers to be in violation of one or more of the WTO agreements. The decision on whether to proceed with WTO dispute is made by the Minister of International Trade and is informed

by a range of input that can include consultations with provinces and territories, input from interested stakeholders, and legal and policy advice. Legal advice can include an assessment of whether another WTO Member's law or trade policy measure could be considered to be in violation of WTO obligations. This can also include a full assessment of the impact of proposed legislation, including its WTO consistency.

In 2009, the European Union legislated a ban on the importation and sale of seal products within its market. In November 2009, the Government of Canada announced that it had taken formal action against the European Union's ban on trade in seal products by requesting WTO consultations. Canada considered that those measures were inconsistent with the European Communities' obligations under the General Agreement on Tariffs and Trade (GATT 1994) and the Technical Barriers to Trade (TBT) Agreement. Consultations with the European Commission took place in December 2009 and did not lead to a resolution of the matter. In 2011, Canada requested the establishment of a WTO dispute settlement panel to challenge the European Union's seal legislation. In May 2014, the WTO Appellate Body upheld an earlier dispute settlement finding that the EU seal legislation was necessary to protect public morals. However, the Appellate Body determined that the exemptions provided for in the legislation for seal products derived from seals harvested by Indigenous Communities was designed and applied in a manner that constituted arbitrary and unjustified discrimination, and therefore not justified.

6. Has Canada initiated any other trade disputes regarding seal product bans? If so, please provide information on the disputes initiated, including the reasons behind the decision to initiate each dispute.

Prior to 2009, the Government of Canada through its Embassies and High Commissions in Europe engaged in diplomacy and advocacy to educate and inform European interlocutors that the seal harvest in Canada was humane, sustainable, well-managed and regulated. Those efforts also included asserting Canada's opposition to boycotts and bans on seal products. Canadian Parliamentarians were also very active in engaging with European Parliamentarians to promote Canada's positions with respect to the seal harvest.

7. Has Global Affairs Canada investigated the possibility of Canada's fish and seafood exports being negatively impacted if certain fisheries chose to use seal products as fishing bait?
 - If so, what are the possible repercussions of such actions?
 - Has Global Affairs Canada issued advice to the fish and seafood industry on this topic?

No, as this falls outside of Global Affairs Canada's mandate.

8. Has Global Affairs Canada investigated the possibility of Canada's fish and seafood exports being negatively impacted by a sustainable increase in Canada's seal harvest?
 - If so, what are the possible repercussions of such a decision?
 - Has Global Affairs Canada issued advice on this topic?

No, as this falls outside of Global Affairs Canada's mandate.

Le comité sénatorial permanent des pêches et océans

RÉPONSE

1. Selon Affaires mondiales Canada, quels sont les obstacles au commerce les plus courants qui affectent les produits canadiens du phoque qui sont prêts à exporter? Ces obstacles diffèrent-ils pour les produits provenant de chasseurs de phoques autochtones et non-autochtones?
2. Quelles mesures Affaires mondiales Canada a-t-elle prises au cours des cinq dernières années pour réduire les obstacles au commerce affectant les produits canadiens du phoque prêts à être exportés?
3. Quelles mesures Affaires mondiales Canada a-t-elle prises au cours des cinq dernières années pour assouplir ou simplement éliminer les interdictions sur l'importation de produits canadiens du phoque, comme celles en vigueur aux États-Unis et dans l'Union européenne?
4. Quelles mesures ou actions supplémentaires Affaires mondiales Canada peut-elle prendre pour réduire ou éliminer les obstacles au commerce affectant les produits canadiens du phoque prêts à être exportés?
5. La décision de contester l'interdiction de l'Union européenne devant l'Organisation mondiale du commerce en 2009 était-elle de nature politique ou des critères spécifiques ont-ils guidé la décision d'engager le différend? Le cas échéant, quels critères spécifiques ont été utilisés?
6. Le Canada a-t-il initié d'autres différends commerciaux concernant l'interdiction des produits du phoque? Dans l'affirmative, veuillez fournir des informations sur les différends engagés, y compris les raisons qui ont motivé la décision d'introduire chaque différend.
7. Est-ce qu'Affaires mondiales Canada a enquêté sur la possibilité que les exportations canadiennes de poisson et de fruits de mer soient affectées négativement si certaines pêcheries choisissaient d'utiliser les produits du phoque comme appât de pêche?
 - Si oui, quelles sont les répercussions possibles de telles actions?
 - Affaires mondiales Canada a-t-elle émise un avis sur ce sujet?
8. Le ministère des Affaires mondiales a-t-il étudié la possibilité que les exportations de poissons et de fruits de mer du Canada soient négativement affectées par une augmentation durable de la chasse aux phoques au Canada ?
 - Dans l'affirmative, quelles sont les répercussions possibles d'une telle décision ?
 - Affaires mondiales Canada a-t-il émis des avis sur ce sujet ?