

8. The EC argues that the terms used in Canada to describe scallops generically - "scallops" in English, "pétoncles" in French - support its view that the term "coquilles Saint-Jacques" must be limited to *Pectens*.<sup>5</sup> However, this dispute is about the commercial labelling and marketing of scallops in the French market and how French consumers perceive scallops labelled with a particular term. The terms used in Canada would only be relevant to this dispute if Canadian consumers had the same perceptions of the term "coquilles Saint-Jacques" and "pétoncles" as do French consumers. This is not the case. In Canada, the term "pétoncles" is a generic term; it is not perceived by consumers to represent a less desirable or less valuable product. The term "coquilles Saint-Jacques" is not used in Canada to describe shucked frozen scallops. Rather, it refers to a cooked preparation of scallops, wine and cream. Thus, terms used in the Canadian market are not relevant to this dispute.

*d. There is no connection between scientific classification and limiting the terms "coquilles Saint-Jacques" and "noix de Saint-Jacques" to Pectens*

9. There is no logical way to link the scientific classification of *Pectinids* to commercial nomenclature. First, the scientific classification of *Pectinids* is far from being clearly delineated. In a recent paper, Dr. T. Waller, an internationally recognized expert on scallop taxonomy, stated: "many generic names have been and are still being introduced in a haphazard fashion based upon local morphological distinctions rather than on phylogenetic grounds based on an overview of the entire family in space and time, and it is clear that pectinid taxonomic nomenclature and classification are in need of drastic revision."<sup>6</sup> It is not reasonable to base a regulation on a largely unresolved area of scientific classification.

*e. There is no reliable method of determining scallop species*

10. In its first written and oral submissions, the EC asserted that France's perfection of a sophisticated electrophoretic analytical technique made it possible to determine which scallops should be labelled as "coquilles Saint-Jacques". However, not only is the technique incapable of supporting the type of distinction made by the Order, but also it appears that France's use of the technique to compare scallops began after the introduction of the Order.

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et Miquelon. This is significant as there are no *Pectens* harvested in those waters, only scallops of the species *Chlamys icelandica* and *Placopecten magellanicus*.

<sup>5</sup> See paragraphs 15-19 of the EC's first written submission.

<sup>6</sup> Shumway, S.E. (ed.) 1991. *Scallops: Biology, Ecology and Aquaculture*, Elsevier, Amsterdam.

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