

he wanted to take into account the interests of the French shellfish fishermen while at the same time safeguarding the interests of the French food processors. He hoped in so doing to avoid "la dévalorisation des fabrications que craignent les opérateurs économiques." It is significant that the Minister of Agriculture and Fisheries does not mention in either of these letters the need to protect the interests of consumers but only the need to balance the interests of French fishermen and French food processors. There is evidence that the Minister was successful in satisfying the demands of the French scallop fishermen if not those of the French food processors.

67. The EC stated in its first written and oral submissions that there is no evidence that "pétoncles" is perceived in the French market as being associated with a lesser quality product than "coquilles Saint-Jacques" and that "pétoncles" are also much appreciated by consumers. The letters cited above, both from the producers complaining about having to use a term which they consider "dévalorisante" and from the Minister recognizing the difficulty caused to the processors by having to use the term "pétoncles", refute this assertion. It is clear that "pétoncles" is a term "dévalorisante" in France and that that is the reason that imported scallops were required by the Order to be labelled "pétoncles", thereby protecting the French scallops fishery.

68. The effect of the Order has been to discriminate against imported scallops in favour of the like domestic scallops. The impact of the Order has been to ensure that the scallops that are produced in the greatest quantities globally cannot compete on an equal basis with like domestic products.³⁶ France has attempted to disguise the discriminatory effects of the Order by permitting a small number of imported species that are harvested in much lower quantities to have the same competitive opportunities as the domestic French scallops. France has limited competition in its domestic scallop market by limiting the terms "coquilles Saint-Jacques" and "noix de Saint-Jacques" to *Pectens* thus excluding the large quantities of non-*Pectens* that would otherwise compete directly with the domestic French scallop. Permitting imported *Pectens* to bear the advantageous label, meanwhile, imposes no competitive threat to the domestic French scallop as the world-wide supply of *Pectens* is small.

iii. *The Order provides French scallops with competitive opportunities that are denied to Canadian scallops*

69. The EC has characterized incorrectly Canada's argument regarding the inconsistency of

³⁶ *Pectens* comprise less than five per cent of the world scallop harvest, while Canada is the third largest producer of non-*Pecten* scallops.