

measure is inconsistent with Article III.³⁵

61. The intent of the French Government in implementing the Order was to discriminate against imported products to protect the domestic French scallop industry.

62. The timing of the March 22, 1993 Order, coming as it did after two months of demonstrations by French fishermen and on the eve of a general election in France, is not mere coincidence. The French Minister of Agriculture and the Sea told the fishermen in February of 1993 that he understood their problem with imports and promised that he would take steps to correct the situation. One month later the Order was made.

63. The Order, although it was welcomed by the fishermen, caused problems for another sector of the French economy -- the producers of frozen prepared dishes containing imported scallops. These producers instituted an intensive lobbying campaign and wrote to Ministers and officials of the French government to complain that being required to use the term "pétoncles" which denigrated their product would cause the market for frozen prepared scallop dishes, which had been growing, to collapse.

64. The new French Minister of Agriculture and Fisheries indicated in letters to the producers that he also understood their problem and that he had given instructions to modify the Order. In a letter to another Deputy in August 1993 he wrote that the new text would retain the name "coquilles Saint-Jacques" for the species sold fresh by French fishermen and would permit the name "Noix de Saint-Jacques (Pétoncles)" for the imported product. He stated further that this solution appeared to him to guarantee to the fishermen the name that they had wanted for a long time, guarantee to consumers precise information and guarantee to processors the use of an attractive commercial name. This it was hoped would satisfy both sectors of the French economy. Even the French Prime Minister became involved in the file and wrote a letter stating that the March 1993 Order would be amended in response to the concerns expressed by the French food processors.

65. As might be expected, the modification of the Order made in December 1993 to appease the manufacturers of frozen processed scallop dishes, and as a result of representations made by Canada, was not acceptable to the fishermen who demonstrated again during the months immediately following the adoption of the amended Order.

66. The French Minister of Agriculture and Fisheries wrote in August 1994 that as a result of the response to the December 1993 Order, the Order would be amended again. After the Order was made in October 1994 he explained the reason for making the amendment, saying that

³⁵ Report of the Panel adopted on 7 November 1989, BISD 36S/345 at paragraph 5.11.