

question before the Panel is the treatment of shucked frozen scallops. The results of questions posed to interviewees regarding photographs of scallops in-shell are not relevant to this matter. As it appears that the interviewers enquired only about scallops in-shell, the French survey does not establish that consumers are concerned about the species of shucked frozen scallops.

20. The survey did not address characteristics that consumers consider relevant in purchasing shucked frozen scallops (such as colour, texture, size, price and trade names), or whether they consider species an important factor when purchasing such scallops. Consumers were not asked whether they were familiar with "pétoncles", nor were they asked what they expected to receive if they were to purchase "pétoncles".

21. As the survey did not specify that it was discussing shucked scallops, and participants were shown photographs of shells, it is likely that they assumed that they were speaking about scallops in-shell. It seems natural that the French consumer survey participants considering scallops in-shell would likely recognize the shell of *Pecten maximus* as the vast majority of fresh scallops purchased in-shell by French consumers are *Pecten maximus*.⁹ Canadian scallops are not sold in-shell in France. Therefore, consumers would not be familiar with *Placopecten magellanicus* shells. However, identification or recognition of a shell does not imply that consumers consider the shell important or even relevant when purchasing shucked scallops.

c. The presence or absence of roe is not relevant to this dispute

22. The EC argues that the roes of Canadian scallops and French scallops are substantially different due to the hermaphroditic nature of French scallops, thereby rendering the scallops significantly different.¹⁰ Roe is not relevant to the trade description of shucked frozen scallops, for three reasons.

23. First, Canada notes that a percentage of *Placopecten magellanicus* populations have been found to be hermaphroditic like *Pecten maximus*. Likewise, a percentage of *Pecten maximus* scallops are "single sexed". More interestingly, *chlamys opercularis*, long known as "pétoncles" in France, is a hermaphrodite.

24. Second, while some French consumers may attach importance to the roe, up to 35 per cent of scallops harvested in France are sold without roe and an estimated 75 per cent of imported shucked frozen scallops are sold without roe.

⁹ Also, *Pecten maximus* shells (or plastic replicas) are used to sell many prepared dishes in France, even if there are no scallops in the preparation.

¹⁰ See paragraph 10 of its first written submission.