

63. Therefore, Article III:4 requires that *Placopecten magellanicus* imported into France must be accorded treatment no less favourable than that accorded to French *Pecten maximus*. GATT 1947 Panels have consistently interpreted this obligation to mean that imported products must be granted competitive opportunities no less favourable than those accorded to domestic products.²⁹

64. The fundamental purpose of Article III is to protect the expectations of the Members as to the competitive relationship between their products and those of other Members.³⁰ Article III:4 therefore calls for *effective* equality of opportunity in respect of the application of laws, regulations and requirements affecting the conditions of competition between the imported good and the like domestic product in the internal market.³¹ Previous GATT 1947 Panels have stated that Article III:4 covers "any laws or regulations which *might* adversely modify" such conditions of competition.³² In essence, Article III:4 applies not only to *actual* distortions of competitive opportunities or discriminatory application of laws, regulations or requirements, but also to the potential impact³³ of distinctions created by such application and the risk of discrimination³⁴ against the imported product. In addition, Article III is intended not merely to protect current trade but also to create the predictability to plan future trade.³⁵

65. Requiring Canadian scallops to be labelled "pétoncles" while like product French scallops may be labelled "coquilles Saint-Jacques" has disrupted the competitive relationship between Canadian *Placopecten magellanicus* and French *Pecten maximus*. Prior to the Order, *Placopecten magellanicus* and *Pecten maximus* could both be labelled with the words "Saint-

²⁹ *United States - Measures Affecting Alcoholic and Malt Beverages*, Report of the Panel adopted on 19 June 1992, BISD 39S/206, para. 5.30.

³⁰ *United States - Taxes on Petroleum and Certain Imported Substances*, Report of the Panel adopted on 17 June 1987, BISD 34S/136, para. 5.2.2.

³¹ *United States - Section 337 of the Tariff Act of 1930*, Report of the Panel adopted on 7 November 1989, BISD 36S/345, paras. 5.11-5.13.

³² Emphasis added; *Italian Discrimination against Imported Agricultural Machinery*, Report of the Panel adopted on 23 October 1958, BISD 7S/60, paras. 11-13.

³³ *United States - Section 337 of the Tariff Act of 1930*, Report of the Panel adopted on 7 November 1989, BISD 36S/345.

³⁴ *EEC - Payments and Subsidies Paid to Processors and Producers of Oilseeds and Related Animal Feed Proteins*, Report of the Panel adopted on 25 January 1990, BISD 37S/86, paras. 137-141.

³⁵ *United States - Taxes on Petroleum and Certain Imported Substances*, Report of the Panel adopted 17 June 1987, BISD 34S/136, para. 5.2.2.
