

that denies it the full range of competitive opportunities that are available to the like domestic scallops labelled "coquilles Saint-Jacques", it would receive less favourable treatment than the like French scallops. The Order is therefore inconsistent with Article III:4.

c. *The Order accords scallops from other countries an advantage not accorded to like Canadian scallops contrary to Article I:1*

72. The EC argues that Article I:1 does not oblige a country to permit a product to use a particular trade name if that product is not the "same" as other imported products that are permitted to use that trade name. Canada notes that Article I:1 applies to "like", not "identical" or "same", products. As the products at issue in this case are like, Article I:1 does impose an obligation that any advantage accorded to imported *Pecten maximus* must be given immediately to the like Canadian product, *Placopecten magellanicus*.

73. The EC argues that the objective of Article I:1 cannot be used to force France to permit *Placopecten magellanicus* to continue to profit by using a trade name that has a favourable reputation in the French market.⁴⁴ However, this is exactly what Article I:1 requires in this case. As stated by the GATT 1947 Panel in *United States - Denial of Most-Favoured-Nation Treatment as to Non-Rubber Footwear from Brazil*, Article I:1

... clearly prohibits a contracting party from according an advantage to a product originating in another country while denying the same advantage to a like product originating in the territories of other contracting parties.⁴⁵

74. By the EC's own admission, there is a benefit or "profit" accorded to scallops that are permitted to be labelled "coquilles Saint-Jacques" or "noix de Saint-Jacques".⁴⁶ As such scallops have a significant competitive advantage over scallops labelled with the pejorative term "pétoncles", the Order grants *Pecten maximus* from other countries an advantage not given to *Placopecten magellanicus*.

d. *Article XX(d)*

75. The EC argues that if the Order is inconsistent with one or both of GATT Articles III:4

⁴⁴ See paragraph 106 of the EC's first written submission.

⁴⁵ Report of the Panel adopted on 19 June 1992, BISD 39S/128, at paragraph 6.11.

⁴⁶ See paragraph 106 of the EC's first written submission.