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- (g) upholds the Panel's finding, in paragraphs 7.374 and 8.4 of the Panel Reports, that the European Communities' violations of the *Agreement on Agriculture* nullified or impaired the benefits accruing to the Complaining Parties under the *Agreement on Agriculture*;
- (h) upholds the Panel's finding, in paragraph 7.74 of the Panel Reports, that the Complaining Parties acted in good faith, under Article 3.10 of the DSU, in the initiation and conduct of the present dispute settlement proceedings and, assuming *arguendo* that estoppel applies, have not been estopped, through their actions or silence, from alleging that the European Communities' exports of Csugar are in excess of its export subsidy reduction commitments;
- (i) finds that the Panel erred, in paragraph 7.387 of the Panel Reports, in exercising judicial economy, and thereby failed to discharge its obligation under Article 11 of the DSU with respect to the Complaining Parties' claims under Article 3 of the *SCM Agreement*, but is not in a position, and therefore declines, to complete the legal analysis and to examine the Complaining Parties' claims under the *SCM Agreement* left unaddressed by the Panel; and
- (j) finds that the European Communities' Notice of Appeal satisfies the requirements of Rule 20(2)(d) of the *Working Procedures for Appellate Review*.

347. The Appellate Body recommends that the Dispute Settlement Body request the European Communities to bring Council Regulation (EC) No. 1260/2001, as well as all other measures implementing or related to the European Communities' sugar regime, found in this Report, and in the Panel Reports as modified by this Report, to be inconsistent with the *Agreement on Agriculture*, into conformity with its obligations under that Agreement.

Signed in the original at Geneva this 9th day of April 2005 by:

A.V. Ganesan
Presiding Member

Merit E. Janow

Yasuhei Taniguchi