

XII. Findings and Conclusions

347. For the reasons set forth in this Report, the Appellate Body:

(a) regarding the terms of reference:

(i) upholds the Panel's finding, in paragraph 7.37 of the Panel Reports, that the Panel's terms of reference do not include EC Regulation 1871/2003 and EC Regulation 2344/2003;

(ii) upholds the Panel's finding, in paragraph 7.37 of the Panel Reports, that the products covered by the Panel's terms of reference are those covered by the specific measures at issue, namely, frozen boneless chicken cuts impregnated with salt, with a salt content of 1.2 to 3 per cent;

(b) regarding the interpretation of the term ViTJenna0.2681 Tw 11153 Td rthel's terms oJ/v..0(00.000

- (iii) upholds the Panel's conclusion, in paragraph 7.328 of the Panel Reports, that "the lack of certainty associated with the application of the criterion of long-term preservation with respect to the concession contained in heading 02.10 of the EC Schedule ... could undermine the object and purpose of security and predictability, which lie at the heart of both the WTO Agreement and the GATT 1994";
- (iv) reverses the Panel's interpretation and application of the concept of

(d) finds that the Panel complied with its obligations under Article 11 of the DSU.

348. The Appellate Body recommends that the Dispute Settlement Body request the European Communities to bring its measures, found in this Report and in the Panel Report as modified by this Report to be inconsistent with the *General Agreement on Tariff and Trade 1994*, into conformity with its obligations under that Agreement.

Signed in the original in Geneva this 27th day of August 2005 by:

Giorgio Sacerdoti
Presiding Member

Luiz Olavo Baptista
Member

A.V. Ganesan
Member