

VII. Findings and Conclusions in the Appellate Body Report WT/DS403/AB/R

261. In the appeal of the Panel Report *Philippines – Taxes on Distilled Spirits* (complaint by the United States WT/DS403/R) (the "US Panel Report"), for the reasons set out in this Report, the Appellate Body:

(a) with respect to Article III:2, first sentence, of the GATT 1994:

(i) upholds the Panel's finding, in paragraph 7.85 of the US Panel Report, that each type of imported distilled spirit at issue in this dispute—gin, brandy, vodka, whisky, and tequila—made from non-designated raw materials is "like" the same type of domestic still spirit made from designated raw materials, within the meaning of Article III:2, first sentence, of the GATT 1994;

(ii) finds that the Panel did not act inconsistently with Article 11 of the DSU in its evaluations of the products' physical characteristics, of the Philippine market for distilled spirits, and of tariff classification;

(iii) upholds, as a consequence, the Panel's finding, in paragraphs 7.90 and 8.2(a) of the US Panel Report, that the Philippines has acted inconsistently with Article III:2, first sentence, of the GATT 1994 by imposing a tax on each type of imported

a)

second sentence, of the GATT 1994, and finds that the Panel did not act inconsistently with Article 11 of the DSU in reaching this finding;

- (ii) upholds the Panel's finding, in paragraph 7.187 of the US Panel Report, that dissimilar taxation imposed by the Philippine excise tax on imported distilled spirits and on directly competitive or ~~sub~~stitutable domestic spirits is applied "so as to afford protection" to Philippine production of distilled spirits; and

Signed in the original in Geneva on the 7th day of December 2011 by:

Peter Van den Bossche
Presiding Member

Jennifer Hillman
Member

Ricardo Ramírez-Hernández
Member