

6 FINDINGS AND CONCLUSIONS IN THE APPELLATE BODY REPORT IN DS438

6.1. In the appeal of the Panel Report, *Argentina – Measures Affecting the Importation of Goods* (WT/DS438/R) (EU Panel Report), for the reasons set out in section 5.1 of this Report, with respect to the Panel's terms of reference, the Appellate Body:

- a. upholds the Panel's finding in paragraph 7.1.b that "[t]he characterization of the [TRRs] as a single measure in the complainants' panel requests did not expand the scope or change the essence of the dispute"¹; and, consequently, finds that the TRRs measure was within the Panel's terms of reference; and
- b. with respect to the Panel's finding regarding the 23 specific instances of application of the TRRs identified in section 4.2.4 of the European Union's first written submission:
 - i. reverses the Panel's finding in paragraph 7.1.c that these 23 specific instances of application of the TRRs were not precisely identified in the EU Panel Request as measures at issue, and thus do not constitute measures at issue in this dispute²;
 - ii. finds, instead, that the EU Panel Request identified the 23 specific instances of application of the TRRs as "specific measures at issue" in conformity with Article 6.2 of the DSU, and that these measures are, therefore, within the Panel's terms of reference; and
 - iii. finds it unnecessary to rule on the European Union's request for completion of the analysis with respect to the 23 specific instances of application of the TRRs as measures at issue, as the conditions on which such request is premised are not met.

6 FINDINGS AND CONCLUSIONS IN THE APPELLATE BODY REPORT IN DS444

6.1. In the appeal of the Panel Report, *Argentina – Measures Affecting the Importation of Goods* (WT/DS444/R) (US Panel Report), for the reasons set out in section 5.1.1 of this Report, with respect to the Panel's terms of reference, the Appellate Body:

- a. upholds the Panel's finding in paragraph 7.5.b that "[t]he characterization of the [TRRs] as a single measure in the complainants' panel requests did not expand the scope or change the essence of the dispute"¹; and, consequently, finds that the TRRs measure was within the Panel's terms of reference.

6 FINDINGS AND CONCLUSIONS IN THE APPELLATE BODY REPORT IN DS445

6.1. In the appeal of the Panel Report, *Argentina – Measures Affecting the Importation of Goods* (WT/DS445/R) (Japan Panel Report), for the reasons set out in section 5.1.1 of this Report, with respect to the Panel's terms of reference, the Appellate Body:

- a. upholds the Panel's finding in paragraph 7.9.b that "[t]he characterization of the [TRRs] as a single measure in the complainants' panel requests did not expand the scope or change the essence of the dispute"¹; and, consequently, finds that the TRRs measure was within the Panel's terms of reference.

6.2. For the reasons set out in section 5.2 of this Report, with respect to the TRRs measure, the Appellate Body:

- a.

Signed in the original in Geneva this 12th day of December 2014 by:

Seung Wha Chang
Presiding Member

Ujal Singh Bhatia
Member

Ricardo Ramírez-Hernández
Member