

necessary in order to facilitate the prompt settlemen

- c. Consequently, we uphold the Panel's findings, in paragraphs 7.135 and 7.187 of the Panel Report that the DCR measures are not covered by the derogation under Article III:8(a) of the GATT 1994 and that, therefore, the DCR measures are inconsistent with Article 2.1 of the TRIMs Agreement and Article III:4 of the GATT 1994.

6.3. India's request for completion of the legal analysis is premised on the condition that we reverse the Panel's finding that the DCR measures are not covered by the derogation under Article III:8(a) of the GATT 1994. Having upheld this finding by the Panel, we need not, and do not, address India's further claims and related arguments regarding the remaining elements under Article III:8(a). We therefore express no view on the Panel's reasoning and analysis in this regard.

6.2 Article XX(j) of the GATT 1994

6.4. With respect to the Panel's findings under Article XX(j) of the GATT 1994, we consider that, in assessing whether products are "in general or local short supply" within the meaning of Article XX(j), a panel should examine the extent to which a particular product is "available" for purchase in a particular geographical area or market, and whether this is sufficient to meet demand in the relevant area or market. This analysis may, in appropriate cases, take into account not only the level of domestic production of a particular product and the nature of the products that are alleged to be "in general or local short supply", but also such factors as the relevant product and geographic market, potential price fluctuations in the relevant market, the purchasing power of foreign and domestic consumers, and the role that foreign and domestic producers play in a particular market, including the extent to which domestic producers sell their production abroad. Due regard should be given to the total quantity of imports that may be "available" to

consider it necessary to examine India's argument s as they relate to the requirements of the chapeau of Article XX of the GATT 1994.

6.3 Article XX(d) of the GATT 1994

6.6. With respect to the Panel's findings under Article XX(d) of the GATT 1994, we consider that, in determining whether a responding party has identified a rule that falls within the scope of "laws or regulations" under Article XX(d) of the GATT 1994, a panel should evaluate and give due consideration to all the characteristics of the relevant instrument(s) and should avoid focusing exclusively or unduly on any single characteristic. In particular, it may be relevant for a panel to consider, among others: (i) the degree of normativ

Signed in the original in Geneva this 22nd day of August 2016 by: