VIII. CONCLUSIONS AND RECOMMENDATIONS

8.1 As a preliminary comment, we note that the parties in this dispute are both developing country Members. However, as was the case in the original proceedings[259], there were no provisions on special and differential treatment for developing country Members invoked by any of the parties. In any event, we find that these provisions were not relevant for the resolution of the specific matter that was brought before this Panel.

8.2 In light of the findings above, we conclude that:

(a) By maintaining a border measure similar to a variable import levy and to a minimum import price, Chile is acting in a manner inconsistent with Article 4.2 of the Agreement on Agriculture, and has thus failed to implement the recommendations and rulings of the DSB;

(b) It is unnecessary, for the resolution of this dispute, to make a separate finding on Argentina's claim under the second sentence of Article II:1(b) of GATT 1994; and,

(c) It is unnecessary, for the resolution of this dispute, to make a separate finding on Argentina's claim under Article XVI:4 of the WTO Agreement.

8.3 Under Article 3.8 of the DSU, in cases where there is infringement of obligations assumed under a covered agreement, the action is considered prima facie to constitute a case of nullification or impairment of benefits under that agreement. Chile has failed to rebut this presumption. Accordingly, we conclude that to the extent Chile has maintained a measure inconsistent with the provisions of the Agreement on Agriculture, it continues to nullify or impair benefits accruing to Argentina under that Agreement.

8.4 We recommend that the Dispute Settlement Body request Chile to bring its PBS into conformity with its obligations under the Agreement on Agriculture.

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[259] Appellate Body Report on *Chile – Price Band System*, paras. 196-199.