

## VIII. CONCLUSIONS AND RECOMMENDATIONS

8.1 In light of the above findings, the Panel *upholds* Panama's claims that that Articles 128.5 e) of Decree No. 2685 and 172.7 of Resolution No. 4240, as well as the various resolutions establishing indicative prices, are inconsistent "as such" with the obligation established in the *Customs Valuation Agreement* to apply, in a sequential manner, the methods of valuation provided in Articles 1, 2, 3, 5 and 6 of the *Customs Valuation Agreement*.

8.2 The Panel further *upholds* Panama's claims that Article 128.5 e) of Decree No. 2685 and Article 172.7 of Resolution No. 4240 as well as the various resolutions establishing indicative prices, are inconsistent "as such" with Article 7.2(b) and (f) of the *Customs Valuation Agreement*.

8.3 In light of the above findings, the Panel *declines to rule* separately on Panama's claims that Article 128.5 e) of Decree No. 2685 and Article 172.7 of Resolution No. 4240, as well as the various resolutions establishing indicative prices, are "as such" inconsistent with Article 7.2(g) of the *Customs Valuation Agreement* and Article III:2, first sentence, and III:4 of the *GATT 1994*.

8.4 The Panel also *declines to rule* separately on Panama's "as applied" claims pertaining to the consistency of Colombia's indicative prices regime with the *Customs Valuation Agreement*, as well as Article III:2, first sentence, and III:4 of the *GATT 1994*.

8.5 The Panel *upholds* Panama's claims that the ports of entry measure is inconsistent with Article I:1, the first and second sentences of Article V:2, the first sentence of Article V:6, and Article XI:1 of the *GATT 1994*.

8.6 The Panel *declines to rule* separately on Panama's claims that the port of entry measure is inconsistent with Articles I:1 and XIII:1 of the *GATT 1994*.

8.7 The Panel further *rejects* Colombia's defence that the ports of entry measure is justified under Article XX(d) of the *GATT 1994*.

8.8 Under Article 3.8 of the *DSU*, in cases where there is infringement of the 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. Accordingly, we conclude that to the extent that Colombia has acted inconsistently with the provisions of the *Customs Valuation Agreement* and the *GATT 1994*, it has nullified or impaired benefits accruing to Panama thereunder.

8.9 Article 19.1 of the *DSU* is explicit concerning the recommendation a panel is to make in the event it determines that a measure is inconsistent with a covered agreement:

"[I]t shall recommend that the Member concerned bring the measure into conformity with that agreement." (footnotes omitted)

8.10 The Panel therefore recommends that Colombia bring its measures into conformity with its obligations under the *Customs Valuation Agreement* and the *GATT 1994*.

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