

concerning the serious effects that money laundering is having on its society and concerning the costs which combating that activity has imposed on Colombian society and the Colombian State.

7.606. As indicated in the preceding sections, the Panel's findings in this report do not question the right of WTO Members to implement measures necessary to combat money laundering and related offences, in a manner consistent with international anti-crime commitments, as well as those which derive from the WTO Agreements.

8 CONCLUSIONS AND RECOMMENDATIONS

8.1. With respect to the issue of the applicability of Article II of the GATT 1994 raised by Colombia, the Panel has found that the measure at issue is structured and designed to be applied to all imports of the products concerned, without distinguishing between "licit" and "illicit" trade. Moreover, no legal provision that bans the importation of goods whose declared prices are below the thresholds established in Decree No. 456 has been identified. For these reasons, in the context of the present dispute, it is unnecessary for the Panel to issue a finding with regard to whether the obligations contained in Articles II:1(a) and II:1(b) of the GATT 1994 are applicable to "illicit trade".

8.2. With respect to imports of products classified in Chapters 61, 62, and 63 and tariff line 6406.10.00.00, the compound tariff constitutes an ordinary customs duty which exceeds the levels bound in Colombia's Schedule of Concessions and is therefore inconsistent with Article II:1(b), first sentence, of the GATT 1994, in the following circumstances:

- a. The tariff consisting of an *ad valorem* component of 10% plus a specific component of US\$5/kg, when the f.o.b. import price is US\$10/kg or less;
- b. The tariff consisting of an *ad valorem* component of 10% plus a specific component of US\$5/kg, when products of the same subheading are imported, some at f.o.b. import prices above and others at f.o.b. import prices below the threshold of US\$10/kg; and
- c. With respect to subheading 6305.32, the tariff consisting of an *ad valorem* component of 10% plus a specific component of US\$3/kg, when the f.o.b. import price is greater than US\$10/kg but less than US\$12/kg.

8.3. With respect to imports of products classified in various tariff headings of Chapter 64 subject to the measure at issue, the compound tariff constitutes an ordinary customs duty which exceeds the levels bound in Colombia's Schedule of Concessions and is therefore inconsistent with Article II:1(b), first sentence, of the GATT 1994, in the following circumstances:

- a. The tariff consisting of an *ad valorem* component of 10% plus a specific component of US\$5/pair, when the f.o.b. import price is US\$7/pair or less; and
- b. The tariff consisting of an *ad valorem* component of 10% plus a specific component of US\$5/pair, when products of the same subheading are imported, some at f.o.b. import prices above and others at f.o.b. import prices below the threshold of US\$7/pair.

8.4. In the circumstances indicated in the preceding paragraphs, the compound tariff also accords treatment less favourable than that envisaged in Colombia's Schedule of Concessions, in a manner inconsistent with Article II:1(a) of the GATT 1994.

8.5. Colombia has failed to demonstrate that the compound tariff is a measure necessary to protect public morals within the meaning of Article XX(a) of the GATT 1994.

8.6. Colombia has also failed to demonstrate that the compound tariff is a measure necessary to secure compliance with the Colombian anti-money laundering legislation, and more specifically Article 323 of the Criminal Code, within the meaning of Article XX(d) of the GATT 1994.

8.7. Even assuming that Colombia had succeeded in demonstrating that its measure is provisionally justified under Article XX(a) or Article XX(d) of the GATT 1994, the compound tariff is

not applied in a manner that meets the requirements of the *chapeau* of Article XX of the GATT 1994.

8.8. In accordance with Article 3.8 of the DSU, in cases where there is an 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 accruing under the agreement in question. In view of the foregoing, the Panel concludes that, insofar as Colombia has acted in a manner inconsistent with the provisions of the GATT 1994, it has nullified or impaired benefits accruing to Panama under that agreement.

8.9. For the reasons indicated in the report, the Panel refrains from making a suggestion as to the way in which Colombia could implement the DSB's recommendations and rulings in the present dispute.

8.10. In accordance with the provisions of Article 19.1 of the DSU, the Panel recommends that Colombia bring the disputed measure into conformity with its obligations under the GATT 1994.
