

Article XI:1. More particularly, we have found that China's administration of its wheat, rice, and corn TRQs inhibits the filling of these TRQs.⁴⁴⁴ We have therefore resolved the issue of whether China's TRQ administration restricts imports at the in-quota rates under the TRQs.⁴⁴⁵

7.238. Finally, we recall that panels are not required to examine all legal claims made by the complaining party, and need only examine those claims that must be addressed to resolve the matter at issue in the dispute.⁴⁴⁶

7.239. In the light of the foregoing, we consider that it is not necessary for us to make a finding under Article XI:1 of the GATT 1994 to secure a positive solution to this dispute. We are also of the view that, should our Report be appealed and the Appellate Body consider it necessary to complete the analysis with regard to the United States' claim under Article XI:1, the factual findings we made in sections 7.1.4.4 and 7.1.4.6 above, would assist the Appellate Body.

7.240. We therefore do not make a finding on the United States' claim under Article XI:1 of the GATT 1994.

8 CONCLUSIONS AND RECOMMENDATIONS

8.1. For the reasons set forth in this Report, we conclude as follows:

- a. With respect to the United States' claims under Paragraph 116 of China's Working Party Report, as incorporated into the WTO Agreement pursuant to Paragraph 1.2 of China's Accession Protocol:
 - i. The basic eligibility criteria used in China's administration of its TRQs for wheat, rice, and corn are inconsistent with the obligations to administer TRQs on a transparent, predictable, and fair basis, and to administer TRQs using clearly specified requirements;
 - ii. The allocation principles used in China's administration of its wheat, rice, and corn TRQs are inconsistent with the obligations to administer TRQs on a transparent, predictable, and fair basis, and to administer TRQs using clearly specified administrative procedures;
 - iii. The reallocation procedures used in China's administration of its wheat, rice, and corn TRQs are inconsistent with the obligation to administer TRQs using clearly specified administrative procedures;
 - iv. The public comment process used in China's administration of its wheat, rice, and corn TRQs is inconsistent with the obligations to administer TRQs on a transparent, predictable, and fair basis, and to administer TRQs using clearly specified administrative procedures;
 - v. The administration of STE and non-STE portions of China's wheat, rice, and corn TRQs is inconsistent with the obligations to administer TRQs on a transparent, predictable, and fair basis, to administer TRQs using clearly specified administrative procedures, and to administer TRQs in a manner that would not inhibit the filling of each TRQ;
 - vi. The United States has not demonstrated that the extent of the public notice provided in connection with the allocation, return, and reallocation of China's wheat, rice, and corn TRQs is inconsistent with the obligations to administer TRQs on a transparent and

⁴⁴⁴ See section 7.1.5 above.

⁴⁴⁵ We note that, in addressing the claim under Paragraph 116 regarding the obligation not to inhibit the filling of each TRQ, we rejected some of the United States' arguments, for instance the one concerning the usage requirement for rice. We do not consider that addressing these arguments again under Article XI:1 would have led to a different outcome and contributed to the resolution of this dispute.

⁴⁴⁶ Appellate Body Report, *US – Wool Shirts and Blouses*, pp. 18-20, DSR 1997:I, p. 323, at pp. 339-341 (referring to Articles 3.2, 3.4, 3.7, 3.9 and 11 of the DSU).

predictable basis, and to administer TRQs in a manner that would not inhibit the filling of each TRQ;

vii. The usage requirements for imported wheat and corn used in China's administration of its TRQ for wheat and corn are inconsistent with the obligations to administer TRQs on a predictable basis, to administer TRQs using clearly specified administrative procedures, and to administer TRQs in a manner that would not inhibit the filling of each TRQ;

viii. The United States has not demonstrated that the usage requirement for imported rice used in China's administration of its TRQ for rice is inconsistent with the obligation to administer TRQs in a manner that would not inhibit the filling of each TRQ;

And, therefore, China's administration of its wheat, rice, and corn TRQs is, as a whole, inconsistent with the obligations to administer TRQs on a transparent, predictable, and fair basis, to administer TRQs using clearly specified requirements and administrative procedures, and to administer TRQs in a manner that would not inhibit the filling of each TRQ;

- b. With respect to the United States' claim under Article XIII:3(b) of the GATT 1994, the United States has not demonstrated that China's administration of its wheat, rice, and corn TRQs is inconsistent with this provision;
- c. With respect to the United States' claim under Articles X:3(a) and XI:1 of the GATT 1994, we consider that it is not necessary for us to make findings under these provisions to secure a positive solution to this dispute.

8.2. Under 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. We conclude that, to the extent that the measure at issue is inconsistent with China's obligations under Paragraph 116 of its Working Party Report, as incorporated into the WTO Agreement pursuant to Paragraph 1.2 of China's Accession Protocol, it has nullified or impaired benefits accruing to the United States under that Working Party Report.

8.3. Pursuant to Article 19.1 of the DSU, we recommend that that the DSB request China to bring its measure into conformity with its obligations under Paragraph 116 of China's Working Party Report, as incorporated into the WTO Agreement pursuant to Paragraph 1.2 of China's Accession Protocol.
