

within the meaning of Article III:4 of the *GATT 1994* as compared to beef produced in the EC; and that Canadian beef has been accorded treatment that is less favourable than EC beef, in contravention of Article III:4 of the *GATT 1994*.

**2. In the alternative, the EC import prohibition infringes Article XI**

311. Canada makes the following submissions, in respect of Article XI of *GATT 1994* in the alternative, *i.e.* they should only be considered by the Panel if it decides that Article III of *GATT 1994* does not apply in this case.

312. Article XI of *GATT 1994* sets out the obligations of Members with respect to the general elimination of quantitative restrictions. Article XI:1 provides:

No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

313. Article XI:2 provides for limited exceptions to this general prohibition, none of which are applicable here. Thus the EC is prohibited from banning the import of beef produced with growth hormones and has infringed Article XI of the *GATT 1994*.

**3. Article XX does not justify the inconsistent EC measures**

314. It is Canada's position that Article XX of the *GATT 1994* does not justify the infringement demonstrated above of Article III or Article XI. Canada will not comment further on Article XX, unless the EC invokes it as a defence.

**E. IN THE ALTERNATIVE, THE EC MEASURES ARE CONTRARY TO THE TBT AGREEMENT**

**1. The TBT Agreement arguments are made in the alternative**

315. Canada has submitted that the EC measures at issue are governed by the *SPS Agreement*. Therefore, the following submissions in respect of the *TBT* are made in the alternative, in case the Panel decides that the matters at issue are not governed by the *SPS Agreement*.