

competitive imported products; and

- c. that the measure at issue could not have been reasonably anticipated at the time of the negotiation of the tariff concession.³⁰⁷

328. In the present case, all of the relevant tariff items are subject to tariff concessions by the EC.³⁰⁸ These concessions include Canadian access to a tariff rate quota of 11,500 tonnes, with an in quota rate of 20%, for high quality, fresh, chilled or frozen beef allocated to Canada and the USA (the "Hilton beef quota").³⁰⁹

329. The Hilton beef quota was originally granted by the EEC during the Tokyo Round Multilateral Trade Negotiations (contained in the EEC schedule of concessions annexed to the Geneva (1979) Protocol), prior to the events which ultimately led to the EC hormone ban. The Hilton beef quota originally was a 10,000 ton levy free tariff quota.³¹⁰

330. When the Hilton beef quota was established, the EC adopted regulations which excluded Canadian high quality beef from its scope. Canada made representations on several occasions in 1979 and 1980 to the EEC and consultations were held between the EEC and Canada several times on the issue of access for Canadian beef under the quota. On 18 June 1980, the GATT Council agreed to Canada's request to establish a Panel. Panel proceedings followed, which resulted in a report that ruled in Canada's favour. This report was adopted

³⁰⁷ See *European Community: Payments and Subsidies Paid to Processors and Producers of Oilseeds and Related Animal-Feed Proteins*, Report of the Panel adopted on 25 January 1990, BISD 37S/86, paras. 142-154.

³⁰⁸ *Uruguay Round Schedule LXXX - European Communities*, Part I Most Favoured-Nation Tariff, Section I - Agricultural Products, Section I A Tariffs and Section I B Tariff Quotas, as subsequently modified. Tariff items covered by the EC beef and veal regime are:

02011050; 02012015; 02012035; 02012055; 02012090; 02013000; 02021000; 02022010;
02022030; 02022050; 02022090; 02023010; 02023050; 02023090; 02061010; 02061091;
02061095; 02061099; 02062100; 02062210; 02062290; 02062910; 02062991; 02062999;
02102010; 02102090; 02109041; 02109049; 16025010; 16025090; 16029061; and 16029069.

³⁰⁹ *Schedule CXL - European Communities*, Part I Most-Favoured-Nation Tariff, Section I - Agricultural Products, Section I B Tariff Quotas

³¹⁰ *European Economic Community - Imports of Beef from Canada*, BISD 28S/92