

4. The impugned measures adopted by the EC constitute an unauthorized exception to the *SPS Agreement* in that they fail to take account properly of internationally accepted standards, guidelines and recommendations in the absence of scientific justification. The measures are being used, in part, as a means to control domestic production resulting in a disguised restriction on international trade.

5. In addition, the EC measures are either an import prohibition, in contravention of the *General Agreement on Tariffs and Trade 1994* ("*GATT 1994*"), or internal measures that discriminate in favour of EC cattle and beef products, and against like Canadian cattle and beef products, also contrary to *GATT 1994*.

6. It is Canada's position that under Article 3.8 of the *Understanding on the Rules and Procedures Governing the Settlement of Disputes* it is up to the EC to rebut Canada's *prima facie* case.

7. Canada will advance alternative arguments that the impugned measures also fail to meet obligations under the *Agreement on Technical Barriers to Trade* ("*TBT Agreement*") in the event it is found to be applicable.

A. PROCEDURAL HISTORY

8. On 28 June 1996, Canada requested consultations with the EC pursuant to Article XXII of the *GATT 1994*, Article 11 of the *SPS Agreement*, Article 14 of the *TBT Agreement*, and Article 19 of the *Agreement on Agriculture*, regarding certain measures prohibiting the importation of livestock and meat from livestock that have been treated with certain substances having a hormonal action.³ The request alleged that these measures adversely affect the importation of livestock and meat from livestock, and as such the Government of Canada was of the view that the measures are inconsistent with EC obligations under the *SPS Agreement*, the *GATT 1994*, the *TBT Agreement*, and the *Agreement on Agriculture*.

9. Australia, the United States and New Zealand, requested to join the consultations.⁴ The EC accepted the requests of Australia and New Zealand, but denied the request of the United States.

10. Consultations took place in Geneva on 25 July 1996, but failed to settle the dispute. Consequently, Canada placed a request for the establishment of a panel on the agenda of the

³ WT/DS48/1

⁴ WT/DS48/2, WT/DS48/3, and WT/DS48/4.