

introductory clause of paragraph 2(a). Therefore, even if, as Panama alleges, the Panel may have failed to appreciate Panama's position regarding Article VI, the Panel did not err in ultimately rejecting Panama's interpretation of paragraph 2(a) of the Annex on Financial Services.

#### 6.4.5 Conclusion

6.272. We have found that an interpretation of paragraph 2(a) of the Annex on Financial Services on the basis of its text, read in the light of its context and the object and purpose of the GATS, supports the view that paragraph 2(a) does not impose specific restrictions on the types of "measures affecting the supply of financial services" that fall within its scope, provided that such measures fulfil all of the requirements of paragraph 2(a). We have also reviewed, and disagreed with, Panama's arguments concerning the alleged errors in the Panel's interpretation of paragraph 2(a). In the light of the above, we find that the Panel did not err in finding, in paragraph 7.847 of its Report, that "paragraph 2(a) of the Annex on Financial Services covers all types of measures affecting the supply of financial services within the meaning of paragraph 1(a)" of the Annex.

### 7 FINDINGS AND CONCLUSIONS

7.1. For the reasons set out in this Report, the Appellate Body:

- a. with respect to Article II:1 of the GATS:
  - i. finds that the Panel erred in its analysis of the term "like services and service suppliers", and therefore reverses the Panel's finding, in paragraph 7.186 of the Panel Report, that services and service suppliers of cooperative countries are like services and service suppliers of non-cooperative countries;
  - ii. finds that the Panel erred in finding, in paragraph 7.235 of the Panel Report, that an assessment of "treatment no less favourable" in this dispute "has to take into account regulatory aspects relating to services and service suppliers that may affect the conditions of competition; in particular, whether Argentina is able to have access to tax information on foreign suppliers"; and
  - iii. reverses the Panel's conclusion, in paragraphs 7.367 and 8.2.b of the Panel Report, that measures 1 to 8 are inconsistent with Article II:1 of the GATS;
- b. with respect to Article XVII of the GATS:
  - i. finds that the Panel erred in its analysis of the term "like services and service suppliers", and therefore reverses the Panel's finding, in paragraph 7.489 of the Panel Report, that Argentine services and service suppliers are like services and service suppliers of non-cooperative countries;
  - ii. finds that the Panel erred in finding, in paragraph 7.494 of the Panel Report, that an assessment of "treatment no less favourable" under Article XVII of the GATS in this dispute "has to take into account regulatory aspects concerning the services and service suppliers that might affect the conditions of competition ... in particular ... the possibility for Argentina to access tax information on the relevant service suppliers"; and
  - iii. reverses the Panel's conclusion, in paragraphs 7.525 and 8.2.c of the Panel Report, that measures 2, 3, and 4 are not inconsistent with Article XVII of the GATS;
- c. with respect to the Panel's application of Article XIV(c) of the GATS to measures 1, 2, 3, 4, 7, and 8:
  - i. finds that Panama has not demonstrated that the Panel failed to focus its analysis on the relevant aspects of the measures that gave rise to the findings of inconsistency with Article II:1 of the GATS;

- ii. finds that Panama has not demonstrated that the Panel erred in finding, in paragraph 7.655 of the Panel Report, that these measures are designed to secure compliance with the relevant Argentine laws or regulations; and
- iii. finds that Panama has not demonstrated that the Panel erred in finding, in paragraph 7.740 of the Panel Report, that these measures are "necessary" to secure compliance with the relevant Argentine laws or regulations; and
- d. with respect to paragraph 2(a) of the Annex on Financial Services, finds that the Panel did not err in finding, in paragraph 7.847 of the Panel Report, that paragraph 2(a) of the Annex on Financial Services "covers all types of measures affecting the supply of financial services within the meaning of paragraph 1(a)" of the Annex.

7.2. Given that we have reversed the Panel's conclusion that measures 1 to 8 are inconsistent with the GATS and have not ruled in this Report on the consistency of these measures with Argentina's obligations under the covered agreements, we make no recommendation pursuant to Article 19.1 of the DSU.

Signed in the original in Geneva this 16th day of March 2016 by:

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Seung Wha Chang  
Presiding Member

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Ujal Singh Bhatia  
Member

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Yuejiao Zhang  
Member

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