

2013, 2014 and 2015, is above China's 8.5% *de minimis* threshold. For rice, this is so regardless of which of the variations in the calculations is employed to produce the AMS values, as discussed above. Therefore, an above-nil AMS value is to be included in China's Current Total AMS figures.

7.413. We thus find that China's level of support in favour of domestic producers is in excess of China's commitment level of "nil", set forth in Section I of Part IV of China's Schedule of Concessions on Goods (CLII). Therefore, China is not in compliance with its domestic support commitments pursuant to Articles 3.2 and 6.3 of the Agreement on Agriculture.

7.5 Claim under Article 7.2(b) of the Agreement on Agriculture

7.414. The Panel recalls that the United States made an alternative claim, to the extent that China's commitment level of "nil" were understood as not setting out any commitment, requesting the Panel to find that the challenged measures are inconsistent with China's obligation under Article 7.2(b) of the Agreement on Agriculture.⁶⁴⁷ Given our findings under Articles 3.2 and 6.3 of the Agreement on Agriculture, we do not find it necessary to conduct an assessment of the United States' alternative claim.

8 CONCLUSIONS AND RECOMMENDATIONS

8.1. The Panel concludes that in the years 2012, 2013, 2014 and 2015, China provided domestic support, expressed in terms of its Current Total AMS, in the form of market price support to producers of wheat, Indica rice and Japonica rice in excess of its commitment level of "nil", set forth in Section I of Part IV of China's Schedule of Concessions on Goods CLII. As such, China acted inconsistently with its obligations under Articles 3.2 and 6.3 of the Agreement on Agriculture.

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. The Panel concludes that, to the extent that the measures at issue are inconsistent with certain provisions of the Agreement on Agriculture, they have nullified or impaired benefits accruing to the United States under that agreement.

8.3. Pursuant to Article 19.1 of the DSU, the Panel recommends that China bring its inconsistent measures into conformity with its obligations under the Agreement on Agriculture.

⁶⁴⁷ United States' first written submission, para. 137 and fn 251.