

**PHILIPPINES – TAXES ON DISTILLED SPIRITS**

Constitution of the Panel Established at the Requests of the European Union  
and the United States

Note by the Secretariat

1. At its meeting on 19 January 2010, the Dispute Settlement Body (DSB) established a panel pursuant to the request of the European Union in document WT/DS396/4, in accordance with Article 6 of the DSU (WT/DSB/M/278). At its meeting on 20 April 2010, the Dispute Settlement Body (DSB) established a panel pursuant to the request of the United States in document WT/DS403/4, in accordance with Article 6 of the DSU (WT/DSB/M/282), and agreed, as provided for in Article 9 of the Dispute Settlement Understanding (DSU) in respect of multiple complainants, that the panel established on 19 January 2010 to examine the complaint by the European Union, will also examine the United States' complaint.

2. The Panel's terms of reference are the following:

"To examine, in the light of the relevant provisions of the covered agreements cited by the parties to the dispute, the matter referred to the DSB by the European Union and the United States in documents WT/DS396/4 and WT/DS403/4 and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in those agreements."

3. On 25 June 2010, the European Union and the United States requested the Director-General to determine the composition of the panel, pursuant to paragraph 7 of Article 8 of the DSU. This paragraph provides:

"If there is no agreement on the panelists within 20 days after the date of the establishment of a panel, at the request of either party, the Director-General, in consultation with the Chairman of the DSB and the Chairman of the relevant Council or Committee, shall determine the composition of the panel by appointing the panelists whom the Director-General considers most appropriate in accordance with any relevant special or additional rules or procedures of the covered agreement or covered agreements which are at issue in the dispute, after consulting with the parties to the dispute. The Chairman of the DSB shall inform the Members of the composition of the panel thus formed no later than 10 days after the date the Chairman receives such a request."

4. On 5 July 2010, the Director-General accordingly composed the Panel as follows:

Chairman: Mr Eirik Glenne

Members: Mr Minn Naing Oo  
Ms Claudia Orozco

5. Australia, China, Colombia (for DS403), the European Union (for DS403), India, Mexico, Thailand, Chinese Taipei and the United States (for DS396) have reserved their rights to participate in the Panel proceedings as third parties.

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