

EUROPEAN COMMUNITIES – EXPORT SUBSIDIES ON SUGAR

Constitution of the Panel Established at the Request of Australia, Brazil and Thailand

Note by the Secretariat¹

1. At its meeting on 29 August 2003, the Dispute Settlement Body (DSB) established a panel pursuant to the requests of Australia in document WT/DS265/21; Brazil in document WT/DS266/21; and Thailand in document WT/DS283/2; in accordance with Article 6 of the Dispute Settlement Understanding.

2. At that meeting, the parties to the dispute agreed to establish a single panel pursuant to Article 9.1 of the DSU with standard terms of reference.

3. The terms of reference are the following:

"To examine, in the light of the relevant provisions of the covered agreements cited by Australia in document WT/DS265/21, by Brazil in document WT/DS266/21 and by Thailand in document WT/DS283/2, the matters referred therein to the DSB by Australia, Brazil and Thailand, and to make such findings as will assist the DSB in making the recommendations or in giving the rulings provided for in those agreements."

4. On 15 December 2003, Australia, Brazil and Thailand 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."

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights or obligations under the WTO Agreement.

5. On 23 December 2003, the Director-General accordingly composed the Panel as follows:

Chairman: Mr. Warren Lavorel

Members: Mr. Gonzalo Biggs
Mr. Naoshi Hirose

6. Australia, Barbados, Belize, Brazil, Canada, China, Colombia, Côte d'Ivoire, Cuba, Fiji, Guyana, India, Jamaica, Kenya, Madagascar, Malawi, Mauritius, New Zealand, Paraguay, Saint Kitts and Nevis, Swaziland, Tanzania, Thailand, Trinidad and Tobago, and the United States have notified their interest to participate in the panel proceedings as third parties.²

² Côte d'Ivoire and Kenya notified their interest to participate as third parties more than ten days after the establishment of the panel. Côte d'Ivoire's notification is dated 5 November 2003; Kenya's notification is dated 26 September 2003.