



**UNITED STATES – COUNTERVAILING DUTY MEASURES ON
CERTAIN PRODUCTS FROM CHINA**

RECOURSE TO ARTICLE 21.5 OF THE DSU BY CHINA

CONSTITUTION OF THE PANEL

Note by the Secretariat

1. At its meeting on 21 July 2016, the Dispute Settlement Body (DSB) referred this dispute, if possible, to the original Panel in accordance with Article 21.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) to examine the matter referred to the DSB by China in document WT/DS437/21.

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 China in document WT/DS WT/DS437/21 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 26 September 2016, China requested the Director-General to determine the composition of the Panel pursuant to paragraph 7 of Article 8 of the DSU.¹ 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 October 2016, the Director-General accordingly composed the Panel as follows:

Chairperson: Mr Hugo Perezcano

Members: Mr Luis Catibayan
Mr Thinus Jacobsz

5. Australia, Canada, European Union, Japan, Korea, Rep. of, India, Russian Federation and Viet Nam have reserved their rights to participate in the Panel proceedings as third parties.

¹ Mr Mario Matus, the Chairperson of the original Panel and Mr Scott Gallacher, one of the Members of the original Panel were not available for these proceedings.