



**THAILAND – CUSTOMS AND FISCAL MEASURES ON CIGARETTES  
FROM THE PHILIPPINES**

**RECOURSE TO ARTICLE 21.5 OF THE DSU BY THE PHILIPPINES**

**CONSTITUTION OF THE PANEL ESTABLISHED AT THE REQUEST OF THE PHILIPPINES**

*Note by the Secretariat*

1. At its meeting on 21 July 2016, the Dispute Settlement Body (DSB) decided, in accordance with Article 21.5 of the Dispute Settlement Understanding (DSU), to refer to the original panel, if possible, the matter raised by the Philippines in document WT/DS371/18.

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 Philippines in document WT/DS371/18 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 7 December 2016, the Philippines 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 16 December 2016, the Director-General accordingly composed the Panel as follows:<sup>1</sup>

Chairman: Mr Thomas Cottier

Members: Mr Alvaro Espinoza  
Mr Alvaro Hansen

5. Australia, Canada, China, the European Union, Japan, the Russian Federation, Singapore, and the United States have reserved their rights to participate in the Panel proceedings as third parties.

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<sup>1</sup> As Mr Roberto Carvalho de Azevêdo and Mr Richard Gottlieb, both original panelists, were no longer available, they were replaced by Mr Thomas Cottier and Mr Alvaro Espinoza, respectively.