

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

Status Report by Thailand

The following communication, dated 10 April 2012, from the delegation of Thailand to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 21.6 of the DSU.

Status Report Regarding Implementation of the
DSB Recommendations and Rulings in the Dispute
Thailand – Customs and Fiscal Measures on Cigarettes from the Philippines
(WT/DS371)

Thailand submits this report in accordance with Article 21.6 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU").

At its meeting on 15 July 2011, the Dispute Settlement Body ("DSB") adopted the Appellate Body report on *Thailand – Customs and Fiscal Measures on Cigarettes from the Philippines* (WT/DS371/AB/R) and the Panel report (WT/DS371/R), as modified by the Appellate Body report.

On 23 September 2011, pursuant to Article 21.3(b) of the DSU, Thailand and the Philippines notified the DSB that they had mutually agreed on the reasonable period of time for Thailand to comply with the recommendations and rulings of the DSB. With respect to the DSB's recommendations and rulings regarding paragraphs 8.3(b) and (c) of the panel report, the reasonable period of time to comply was 15 months, expiring on 15 October 2012. With respect to the DSB's recommendations and rulings regarding all other measures, the reasonable period of time to comply shall be 10 months, expiring on 15 May 2012.

Article 21.6 of the DSU provides that the issue of implementation of the recommendations or rulings shall be placed on the agenda of the DSB meeting after six months following the date of establishment of the reasonable period of time pursuant to paragraph 3 and shall remain on the DSB's agenda until the issue is resolved. Accordingly Thailand hereby provides with the following a status report in writing of its progress in the implementation of the recommendations or rulings.

Regarding the Panel's findings under the Customs Valuation Agreement, Thai Customs is revising its regulations on the determination of customs value using the transaction value and the deductive value methods, pursuant to Articles 1 and 5 of the Customs Valuation Agreement respectively. Draft regulations are currently being reviewed internally before publication.

Regarding the customs valuation of the specific entries of merchandise listed in the Philippines' request for the establishment of a panel (see Annex 1 of WT/DS371/3, 6 October 2008) and the specific entries involved in the Philippines' claims under Article X:3 of the GATT 1994, Thai Customs is in the process of re-valuing these entries in line with the panel's rulings and recommendations. Both cases were considered at a meeting of the Customs Valuation Appeal Sub-Committee on 28 February 2012 and will be finally considered by the Customs Valuation Appeal Committee by the end of the reasonable period of time.

Regarding the Panel's rulings and recommendations concerning the establishment of maximum retail selling prices ("MRSPs") for the sale of cigarettes in Thailand, the Thai Excise Department is reviewing internally draft regulations implementing the panel's findings with regard to the MRSPs. New regulations are expected to be published by the end of the reasonable period of time.

Regarding the Panel's and the Appellate Body's findings concerning the administrative requirements for VAT reporting for re-sales of imported and domestic cigarettes, the Thai Revenue Department is preparing draft legislation that will ensure that the same VAT requirements apply to re-sales of both imported and domestic cigarettes.

Regarding the Panel's findings with respect to delays in the appeal process for customs valuation determinations, Thai Customs is adopting new rules to prevent delays in the appeal process.

Regarding the Panel's and the Appellate Body's findings that Thailand failed to maintain an independent review process for the purpose of providing prompt review of decisions to require customs guarantees on clearance of goods pending determination of the customs value, Thailand is establishing an independent review body with authority to review guarantee decisions.

Regarding the Panel's finding that Thailand failed to properly publish the rules regarding the release of guarantees, Thai Customs will re-publish this rule in a manner consistent with the panel's findings.

Thailand expects to complete each of the actions described above within the reasonable periods of time previously agreed.

Thailand will consult with interested parties as it works to address the recommendations and rulings of the DSB.
