

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

Communication from Thailand and the Philippines concerning  
Article 21.3(b) and 21.3(c) of the DSU

The following communication, dated 1 September 2011, from the delegation of Thailand and the delegation of the Philippines to the Chairperson of the Dispute Settlement Body, is circulated at the request of these delegations.

On 15 July 2011, the Dispute Settlement Body ("DSB") adopted the Appellate Body report and the Panel report, as modified by the Appellate Body report in *Thailand – Customs and Fiscal Measures on Cigarettes from the Philippines* (WT/DS371/AB/R and WT/DS371/R). By letter of 11 August 2011 to the DSB (WT/DS371/12), Thailand stated its intention to implement the recommendations and rulings of the DSB as set out in the adopted reports and that it would need a reasonable period of time in which to do so

Article 21.3(b) of the DSU provides that in the absence of a time proposed by the Member concerned and approved by the DSB the reasonable period of time shall be "a period of time mutually agreed by the parties to the dispute within 45 days after the date of adoption of the recommendations and rulings." Article 21.3(c) of the DSU provides that, in the absence of an agreement between the parties on a period of time, the reasonable period of time shall be determined "through binding arbitration within 90 days after the date of adoption of the recommendations and rulings".

In order to allow sufficient time for the parties to discuss a mutually agreed period, the Philippines and Thailand: (i) have agreed that any agreement between the parties on a reasonable period of time shall be considered to be an agreement under Article 21.3(b) even if concluded outside the 45 days period; (ii) have also agreed that any arbitration under Article 21.3(c) of the DSU shall be completed no later than 60 days after the date of the appointment of an arbitrator, unless the arbitrator, following consultation with the parties, considers that additional time is required; and (iii) hereby confirm that any award of the arbitrator (including an award not made within 90 days after the date of adoption of the recommendations and rulings) shall be deemed to be an award of the arbitrator for the purposes of Article 21.3(c) of the DSU in determining the reasonable period of time for Thailand to implement the recommendations and rulings of the DSB.

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Permanent Representative of Thailand to the WTO	Permanent Mission of the Philippines to the WTO