

EUROPEAN COMMUNITIES – DEFINITIVE ANTI-DUMPING MEASURES ON CERTAIN IRON OR STEEL FASTENERS FROM CHINA (DS397)

Constitution of the Panel Established at the Request of China

Note by the Secretariat

1. At its meeting on 23 October 2009, the Dispute Settlement Body ("DSB") established a panel pursuant to the request of China in document WT/DS397/3, in accordance with Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU").

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/DS397/3 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 30 November 2009, the European Communities¹ 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 On 1 December 2009, the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community (done at Lisbon, 13 December 2007) entered into force. On 29 November 2009, the WTO received a Verbal Note (WT/L/779) from the Council of the European Union and the Commission of the European Communities stating that, by virtue of the Treaty of Lisbon, as of 1 December 2009, the European Union replaces and succeeds the European Community.

4. On 9 December 2009, the Director-General accordingly composed the Panel as follows:

Chairman: Mr. Luiz Baptista

Members: Mr. Michael Mulgrew
Mr. Arie Reich

5. Brazil, Canada, Chile, Colombia, India, Japan, Norway, Chinese Taipei, Thailand, Turkey, and the United States have reserved their rights to participate in the Panel proceedings as third parties.
