



**AUSTRALIA – CERTAIN MEASURES CONCERNING TRADEMARKS
AND OTHER PLAIN PACKAGING REQUIREMENTS APPLICABLE TO
TOBACCO PRODUCTS AND PACKAGING
(WT/DS434)**

**AUSTRALIA – CERTAIN MEASURES CONCERNING TRADEMARKS,
GEOGRAPHICAL INDICATIONS AND OTHER PLAIN PACKAGING REQUIREMENTS
APPLICABLE TO TOBACCO PRODUCTS AND PACKAGING
(WT/DS435, WT/DS441, WT/DS458, WT/DS467)**

**PROCEDURAL AGREEMENT BETWEEN AUSTRALIA AND
UKRAINE, HONDURAS, THE DOMINICAN REPUBLIC, CUBA AND INDONESIA**

The following communication, dated 24 April 2014, addressed to the Chairperson of the Dispute Settlement Body, is circulated at the request of Australia on behalf of all the signatories to this procedural agreement.

Panels have been established at the requests of Ukraine (DS434), Honduras (DS435) and Indonesia (DS467) to examine their respective complaints concerning Australia's plain packaging requirements applicable to tobacco products and packaging (the "tobacco plain packaging measure"). Dominican Republic (DS441) and Cuba (DS458) have each requested the establishment of dispute settlement panels to consider their respective complaints concerning the same matter. Those requests will be considered at the WTO Dispute Settlement Body meeting on 25 April 2014. In relation to the tobacco plain packaging disputes, Australia, Ukraine, Honduras, Dominican Republic, Cuba and Indonesia (hereafter referred to as "the parties") have reached the following agreement:

Arrangements for the establishment of related Panels:

Dominican Republic (DS441) and Cuba (DS458) will proceed with their panel requests at the 25 April 2014 Dispute Settlement Body meeting and Australia will agree to the establishment of those panels at that meeting. At that point, five panels will have been established to examine complaints related to the same matter (the tobacco plain packaging measure) within the meaning of Article 9.3 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* (DSU).

Arrangements for the composition of the Panels:

Pursuant to Article 8.7 of the DSU, on 24 March 2014, Ukraine requested the Director-General to determine the composition of the panel in DS434. On 26 March 2014, Australia requested the Director-General to determine the composition of the panel in DS435.

On 23 April 2014, Australia requested the Director-General to determine the composition of the panel in DS467. On 25 April 2014, Australia will request the Director-General to determine the composition of the panels in DS441 and DS458.

The parties have agreed that a meeting with the Director-General on panel composition will take place on 24 April 2014. In order to ensure that the views of all parties are taken into consideration by the Director-General for the selection of panelists, the Director-General has been requested to allow the full participation of all the parties in the meeting with him on 24 April 2014, irrespective of the stage of the respective disputes.

The Director-General will compose the panels in DS434, DS435, DS441, DS458 and DS467 on 5 May 2014, and the same panelists will be appointed in all these disputes, pursuant to Article 9.3 of the DSU.

The parties agree that following the composition of the Panels by the Director-General on 5 May 2014, all the requirements of Article 8 of the DSU will have been met.

Without prejudice to their respective rights under the DSU, the parties agree to the harmonisation of the timetable for the panel proceedings in DS434, DS435, DS441, DS458, DS467, pursuant to Article 9.3 of the DSU. The parties will undertake best endeavours to agree on a timetable to propose to the Panels.

Miscellaneous:

The parties agree to continue to co-operate in all matters related to this agreement and not to raise any procedural objections to any of the steps set out in this agreement. If during the application of this agreement the parties consider that a procedural aspect has not been properly covered by this agreement, they will endeavour to find a solution within the shortest time possible that will not affect the other aspects and agreed steps contained in this agreement.

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