

**EUROPEAN COMMUNITIES – CUSTOMS CLASSIFICATION OF
FROZEN BONELESS CHICKEN CUTS**

Constitution of the Panel Established at the Requests
of Brazil and Thailand

Note by the Secretariat

Revision

1. At its meeting on 7 November 2003, the Dispute Settlement Body (DSB) established a panel pursuant to the request of Brazil in document WT/DS269/3. At its meeting on 21 November 2003, the DSB established a panel pursuant to the request of Thailand in document WT/DS286/5 and agreed, as provided for in Article 9 of the Dispute Settlement Understanding (DSU) in respect of multiple complainants, that the panel established on 7 November 2003, to examine the complaint by Brazil will also examine Thailand's complaint (WT/DSB/M/158).

2. At those meetings, the parties to the dispute also agreed that the panel should have standard terms of reference. The terms of reference are, therefore, the following:

"To examine, in the light of the relevant provisions of the covered agreements cited by Brazil in document WT/DS269/3 and Thailand in document WT/DS286/5, the matter referred to the DSB by Brazil and Thailand in those documents, 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 17 June 2004, Brazil and Thailand 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 28 June 2004, the Director-General accordingly composed the Panel as follows:

Chairman: Mr. Hugh McPhail

Members: Ms Elizabeth Chelliah
Mr. Manzoor Ahmad

5. Brazil (in respect of Thailand's complaint), China, Colombia, Thailand (in respect of Brazil's complaint) and the United States have reserved their rights to participate in the Panel proceedings as third parties¹.

¹ Chile had reserved its third-party rights at the DSB meetings of 7 and 21 November 2003. However, on 14 July 2004, Chile informed the Panel that it did not want to participate as third-party in these panel proceedings.