

EUROPEAN COMMUNITIES AND ITS MEMBER STATES – TARIFF TREATMENT OF CERTAIN INFORMATION TECHNOLOGY PRODUCTS

Constitution of the Panel Established at the Request of the United States,
Japan, and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu

Note by the Secretariat

1. At its meeting on 23 September 2008, the Dispute Settlement Body (DSB) established a panel pursuant to the request of the United States, Japan, and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu in document WT/DS375/8, WT/DS376/8 and WT/DS377/6, in accordance with Article 6 of the DSU (WT/DSB/M/256).

2. The Panel's terms of reference are the following:

"To examine, in the light of the relevant provisions in the covered agreements cited by the parties to the dispute, the matter referred to the DSB by the United States, Japan and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu in document WT/DS375/8, WT/DS376/8 and WT/DS377/6, 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 12 January 2009, the United States, Japan, and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu 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 22 January 2009, the Director-General accordingly composed the Panel as follows:

Chairman: Mr Wilhelm Meier

Members: Mr David Evans
Ms Valerie Hughes

5. Australia; Brazil; China; Costa Rica; Hong Kong, China; India; Japan (in respect of the United States' and Chinese Taipei's complaints); Korea; the Philippines; Singapore; Chinese Taipei (in respect of the United States' and Japan's complaints); Thailand; Turkey; the United States (in respect of Japan's and Chinese Taipei's complaints); and Viet Nam have reserved their rights to participate in the Panel proceedings as third parties.¹

¹ Japan, Chinese Taipei and the United States notified their interest to participate as third parties more than ten days after the establishment of the panel. Japan's, Chinese Taipei's and the United States' notifications are dated 23 January 2009.