



**EUROPEAN COMMUNITIES AND CERTAIN MEMBER STATES – MEASURES  
AFFECTING TRADE IN LARGE CIVIL AIRCRAFT**

RECOURSE TO ARTICLE 21.5 OF THE DSU BY THE EUROPEAN UNION  
AND CERTAIN MEMBER STATES

CONSTITUTION OF THE PANEL ESTABLISHED AT THE REQUEST OF THE EUROPEAN UNION

NOTE BY THE SECRETARIAT

*Revision*

1. At its meeting on 27 August 2018, the Dispute Settlement Body (DSB) agreed, pursuant to Article 21.5 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), to refer to the original Panel, if possible, the matter raised by the European Union and certain member States in document WT/DS316/39.

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 the European Union and certain member States in document WT/DS316/39 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 September 2018, the European Union requested the Director-General to determine the composition of the Panel, pursuant to Article 8.7 of the DSU, read together with Article 21.5 of the DSU. The former provision 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. In accordance with the above-mentioned provisions, and given the unavailability of two members of the original panel, the Director-General composed the Panel on 28 September 2018 as follows:

Chairperson: Mr Hugo Cayrús

Members: Mr Christian Etter  
Mr Thinus Jacobsz

5. Australia, Brazil, Canada<sup>1</sup>, China, India, Japan, and the Russian Federation have reserved their rights to participate in the Panel proceedings as third parties.

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<sup>1</sup> On 30 November 2018, Canada notified its interest to participate as a third party.