

FW: WTO/DSB 28 September 2012

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E-mail briefing for journalists

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Dispute Settlement Body

Meeting of 28 September 2012

Agenda of the meeting is in document WT/DSB/W/488

- Panels established on Australia's measures on plain packaging of tobacco products, and on countervailing duty measures on exports from China to the United States.
- Request for a panel rejected on China's anti-dumping and countervailing duties on automobiles from the United States.

✓ At the second request by Ukraine, the DSB agreed to establish a panel to study the complaint against measures taken by Australia concerning trademarks and other plain packaging requirements applicable to tobacco products and packaging.

In its request for the establishment of a panel, Ukraine said that Australia's measures "erode the protection of intellectual property rights" and "impose severe restrictions on the use of validly registered trademarks". Ukraine's statement also said that "Ukraine considers that governments should pursue legitimate health policies through effective measures without unnecessarily restricting international trade and without nullifying intellectual property rights as guaranteed by international trade and investment rules". Ukraine also considers that the measures "are clearly more restrictive than necessary to achieve the stated health objectives" and thus violate the Agreement on Technical Barriers to Trade as an "unnecessary obstacle to trade".

Australia showed surprise and disappointment that Ukraine decided to challenge Australia's tobacco plain packaging measures since this step "is at odds with the policies being pursued within Ukraine to comply with the WHO Framework Convention on Tobacco Control". Australia mentioned that Ukraine has also taken many measures in accordance with this Convention and said that the tobacco plain packaging "is a sound, well-considered measure designed to achieve a legitimate objective - the protection of public health", that the WTO recognises as a fundamental right of its Members. Australia added that the measure is "clearly non-discriminatory" and "nor is more restrictive than necessary to fulfil its legitimate objective".

Uruguay supported Australia and said that it could not remain silent in this fight against "the most serious pandemic confronting Humanity". Uruguay also said that "The norms of the Multilateral Trading System cannot and should not force its Members to allow that a product that kills its citizens in unacceptable and alarming

proportions continues to be sold wrapped as candy to attract new victims".

New Zealand and Norway also supported Australia. New Zealand saying that also is considering plain packaging measures and Norway saying that countries are under the obligation to adopt measures to protect public health.

Zimbabwe, Honduras, Dominican Republic, Nicaragua and Indonesia supported Ukraine. Zimbabwe said that 200.000 farmers and their families in the country depend on tobacco for their livelihood. Honduras said that the WHO Framework Convention is indicative and non-binding. Nicaragua said that tobacco is one of the most important items in the country's exports.

Members that asked to exercise third party rights in the dispute were: Uruguay, New Zealand, Norway, Zimbabwe, Honduras, Dominican Republic, Zambia, Nicaragua, Indonesia, United States, Chinese Taipei, Turkey, Oman, Japan, European Union, Philippines, Ecuador, Korea, India, Brazil, Argentina, Singapore, Guatemala and Canada.

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