WORLD TRADE ORGANIZATION

RESTRICTED

WT/DSB/M/272
28 September 2009

(09-4505)

Dispute Settlement Body
31 July 2009

MINUTES OF MEETING

Held in the Centre William Rappard
on 31 July 2009

Chairman: Mr. John Gero (Canada)

1. United States – Certain measures affecting imports of poultry from China

(a) Request for the establishment of a panel by China (WT/DS392/2)

1. The Chairman recalled that the DSB had considered this matter at its meeting on 20 July 2009, and had agreed to revert to it. He drew attention to the communication from China contained in document WT/DS392/2, and invited the representative of China to speak.

2. The representative of China said that, at the previous DSB meeting on 20 July 2009, his country had described its concerns over the measures identified in its request for the establishment of a panel, which had been circulated as document WT/DS392/2 on 23 June 2009. As detailed in the panel request, the United States had imposed measures that constituted clear violations of its WTO obligations, and had resulted in a complete ban on the import of poultry products from China. Although China had repeatedly expressed its serious concerns to the United States, both bilaterally and multilaterally, unfortunately the matter had not been solved. As a result, given its systemic and practical concerns, China had no alternative but to renew its request that the DSB establish a panel at the present meeting under Article XXIII of the GATT 1994, Article 6 of the DSU, Article 19 of the Agreement on Agriculture and Article 11 of the SPS Agreement.

3. The representative of the United States said that his country was disappointed that China had decided to pursue its request for a panel in this matter. The United States understood that a panel would be established at the present meeting but, nonetheless, did not agree with China's assertions that the measure at issue amounted to a discriminatory or protectionist measure. As had been stated, nothing in the measure identified by China prevented the relevant US authorities from continuing to work together to reach an objective, science-based response to China's request for a declaration of equivalence with respect to poultry products. These authorities were examining whether China's food safety system ensured that poultry products from China met the United States level of protection, and they were proceeding in a way that both safeguarded human life and health and was consistent with US obligations under the WTO Agreement. The United States was confident that a panel would so agree. In addition, the United States did not agree with China's statement at the previous DSB meeting that this measure would forestall the normal business of trade between the two countries, which had a broad and deep trade relationship, and continued to work together closely on a bilateral and multilateral basis to resolve any problems that might arise. On occasion, both the United States and China had had recourse to dispute settlement under the DSU, as the WTO Agreement contemplated. Although the United States was disappointed that China had chosen to pursue a panel in this matter, it was confident that this dispute could be resolved through the WTO dispute settlement

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system. Therefore, the United States saw no reason that this, or any other dispute, should have repercussions on any other trade matters between the United States and China. The United States remained concerned with the way in which China had framed its panel request. In particular, the request appeared both to include measures that had not been consulted upon or did not exist and to make claims under a covered agreement pursuant to which consultations were neither requested nor held.

4. The DSB took note of the statements and agreed to establish a panel in accordance with the provisions of Article 6 of the DSU with standard terms of reference.

5. The representatives of the European Communities, Guatemala, Korea and Turkey reserved their third-party rights to participate in the Panel's proceedings.