



**INDIA – MEASURES CONCERNING THE IMPORTATION
OF CERTAIN AGRICULTURAL PRODUCTS**

RECOURSE TO ARTICLE 22.2 OF THE DSU BY THE UNITED STATES

The following communication, dated 7 July 2016, from the delegation of the United States to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 22.2 of the DSU.

The United States considers that India has failed to comply with the recommendations and rulings of the Dispute Settlement Body ("DSB") in the dispute *India — Measures Concerning the Importation of Certain Agricultural Products from the United States* (DS430) (*India — Agricultural Products*). Pursuant to Article 22.2 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), the United States requests authorization from the DSB to suspend concessions or other obligations with respect to India at an annual level based on a formula commensurate with the trade effects caused to the interests of the United States by the failure of India to comply with the recommendations and rulings of the DSB. Based on currently available data, the United States estimates this figure to be approximately \$450 million in 2016. The United States will update this figure annually.

On 19 June 2015, the DSB adopted the panel report, as modified by the Appellate Body report, in *India — Agricultural Products*, finding that India's avian influenza measures breach numerous provisions of the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures* ("SPS Agreement"). Accordingly, the DSB recommended that India "bring its measures into conformity with its obligations under the SPS Agreement."

The United States and India agreed that the reasonable period of time for India to implement the DSB's recommendations and rulings would expire on 19 June 2016. In the view of the United States, India failed to bring its measures into compliance with its obligations under the SPS Agreement within that period. The parties have not reached agreement on compensation. Therefore, the United States is entitled to authorization by the DSB to take countermeasures under Article 22 of the DSU.

In considering what countermeasures to take, the United States follows the principles and procedures set forth in Article 22.3 of the DSU. The countermeasures would consist of suspension of tariff concessions and related obligations (including most-favored-nation obligations) under the *General Agreement on Tariffs and Trade 1994* on a list of products of India to be drawn from the Harmonized Tariff Schedule of the United States.
