



16 July 2021

(21-5635)

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Original: English

CHINA – TARIFF RATE QUOTAS FOR CERTAIN AGRICULTURAL PRODUCTS

RECOURSE TO ARTICLE 22.2 OF THE DSU BY THE UNITED STATES

The following communication, dated 15 July 2021, 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 China has failed to implement the recommendations of the Dispute Settlement Body ("DSB") in the dispute *China – Tariff Rate Quotas for Certain Agricultural Products* (DS517). 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 China at an annual level based on the level of the nullification or impairment of benefits accruing to the United States under the covered agreements from the failure of China to implement the recommendations of the DSB. Each year, the United States would suspend concessions or other obligations equivalent to the level of nullification or impairment through a formula that relates to the value of the unfilled portion of any tariff-rate quota (TRQ) for wheat, rice, or corn, as set out in China's WTO Schedule. The value prescribed by this formula will be updated annually according to the most recent calendar year data.

On May 28, 2019, the DSB adopted the panel report contained in WT/DS517/R, finding that China's administration of TRQs for wheat, rice, and corn was inconsistent with its obligations to administer TRQs on a transparent, predictable, and fair basis, using clearly specified requirements and administrative procedures, and in a manner that would not inhibit the filling of each TRQ under Paragraph 116 of China's Working Party Report,¹ as incorporated into the WTO Agreement² pursuant to Paragraph 1.2 of China's Accession Protocol.³ Accordingly, the DSB recommended that China bring its inconsistent measures into conformity with its WTO obligations.

The United States and China agreed that the reasonable period of time for China to implement the DSB's recommendations would expire on June 29, 2021. In the view of the United States, China failed to bring its measures into compliance with its WTO obligations 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 include suspension of concessions or other obligations (including most-favored-nation obligations) under the *General Agreement on Tariffs and Trade 1994* or other agreements listed in Annex 1A of the WTO Agreement on a list of products of China to be drawn from the Harmonized Tariff Schedule of the United States.

We request that you circulate this request to the Members of the DSB.

¹ *Report of the Working Party on the Accession of China*, WT/ACC/CHN/49 (October 1, 2001).

² Marrakesh Agreement Establishing the World Trade Organization.

³ *Protocol on the Accession of the People's Republic of China*, WT/L/432 (November 23, 2001).