1. **MEASURE AND PRODUCT AT ISSUE**

- **Measure at issue**: Section 727 of the Agriculture Appropriations Act of 2009 which prohibited the use of funds to establish or implement a rule allowing poultry products from China to be imported into the United States.

- **Product at issue**: Poultry products from China.

2. **SUMMARY OF KEY PANEL FINDINGS**

- **SPS Arts. 1, 5.1, 5.2 and 2.2 (scope of SPS measures, risk assessment, sufficient scientific evidence)**: The Panel found that Section 727 satisfied the two conditions in Art. 1 for a measure to be considered an SPS measure under the SPS Agreement. The Panel concluded that Section 727 was inconsistent with Arts. 5.1 and 5.2 because it was not based on a risk assessment that took into account the factors set forth in Art. 5.2. It was also found inconsistent with Art. 2.2 because it was maintained without sufficient scientific evidence.

- **SPS Arts. 5.5, 2.3 (prohibition on discrimination) and 8 (control, inspection and approval procedures)**: The Panel found that Section 727 was inconsistent with Art. 5.5 because the distinction in the appropriate levels of protection for poultry products from China and for poultry products from other WTO Members was arbitrary or unjustifiable and that such a distinction resulted in discrimination against China. The inconsistency of Section 727 with Art. 5.5 necessarily implied its inconsistency with Art. 2.3. The Panel concluded that Section 727 was inconsistent with Art. 8 because it had caused an undue delay in the Food Safety and Inspection Service approval procedures.

- **GATT Arts. I:1 (most-favoured-nation treatment), XI:1 (prohibition on quantitative restrictions) and XX(b) (exceptions – necessary to protect human life or health)**: The Panel found that Section 727 was inconsistent with Art. I:1 because the United States treated the like products from China in a less favourable manner than those from the other Members; and with Art. XI:1, because Section 727 imposed a prohibition on the importation of poultry products from China. The Panel found that Section 727 was not justified under Art. XX(b) because it was found inconsistent with Arts. 2.2, 2.3, 5.1, 5.2 and 5.5 of the SPS Agreement.

3. **OTHER ISSUES**

- **Terms of reference (DSU Arts. 6.2 and 7)**: The Panel found that, contrary to the United States’ preliminary objection, China had requested consultations pursuant to SPS Agreement Art. 11 and its SPS claims were within the Panel’s terms of reference.

- **Expired measure and panel recommendation**: Although the Panel found several violations, it did not recommend the United States to bring Section 727 into conformity with its obligations as under the SPS Agreement and the GATT, because Section 727 had already expired.