

**UNITED STATES – TARIFF MEASURES ON CERTAIN GOODS FROM CHINA  
(DS543)**

**First Substantive Meeting of the Panel with the Parties**

**Closing Statement of the United States**

**October 31, 2019**

Mr. Chairman, Members of the Panel, I would first like to thank you and the Secretariat.

1. The objective evidence on the record demonstrates that both parties have agreed to settle the matter as far as DSU is concerned. Therefore, Article 12.7 of the DSU (last sentence) applies to the circumstances of this dispute. Accordingly, the Panel’s report “must be confined to brief description of the facts and to a reporting that a resolution has been reached.” China is not, therefore, entitled to the legal findings or recommendations that it now seeks.

2. Further, China’s request for legal findings is inconsistent with several principles of the DSU, including Article 3.7, which provides that the suspension of concessions should be taken as a “last resort” – and Article 3.10, which provides that Members should “engage” in the dispute settlement process in “good faith.”

3. In this case, China undertook a suspension of concessions as a first resort, in response to the measures at issue in this dispute. China’s decision to ignore the procedures of the DSU, while attempting to avail itself of the dispute settlement process – and with respect to the very same matter – shows that “good faith” is not at hand on China’s part.

4. Regarding China’s stated concerns of predictability and stability of the multilateral trading system—they ring hollow. China’s decision to ignore WTO rules on the one hand while seeking to benefit from those very same rules on the another, would appear to be a signature demonstration of conduct that undermines the predictability and stability of the WTO system.

5. Even if China were entitled to legal findings and recommendations on its claims, the United States has established that the measures at issue are justified under Article XX(a) of the GATT 1994—that is, because they are “necessary to protect public morals.”

6. Nothing that China has said or submitted during these proceedings serves to rebut the United States *prima facie* showing that the measures at issue are justified under Article XX(a).

7. Instead, China’s core argument in response is to say that a measure that seeks to induce a change in a Member’s conduct by applying “economic pressure” can never be justified under Article XX(a). Of course, nothing in Article XX(a) supports the view that China asserts.

8. I will conclude my closing statement here. Once again, we thank the Panel and the Secretariat.