

# USTR NEWS

UNITED STATES TRADE REPRESENTATIVE

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## **United States Wins Trade Enforcement Case for American Farmers, Proves Export-Blocking Chinese Duties Unjustified Under WTO Rules**

**Washington, D.C.** – United States Trade Representative Michael Froman, Secretary of Commerce Penny Pritzker, and Secretary of Agriculture Tom Vilsack announced today that the United States won a major case at the World Trade Organization (WTO) on behalf of American chicken producers, proving that China’s imposition of higher duties on chicken “broiler products” – which was followed by an 80-percent drop in American exports of those products to China – is unjustified under international trade rules. A WTO dispute settlement panel agreed with the United States, finding that China violated numerous WTO obligations in conducting its investigations and imposing anti-dumping (AD) duties and countervailing duties (CVD) on chicken imports from the United States.

The Monitoring and Enforcement unit of the Office of the U.S. Trade Representative and other USTR staff worked closely with the U.S. Department of Commerce and the U.S. Department of Agriculture in preparing and litigating this case. Personnel from the Interagency Trade Enforcement Center (ITEC), created by President Obama to enhance U.S. trade enforcement capabilities, also provided support for the dispute.

**“This decision sends a clear message that the Obama Administration can fight and win for American farmers, businesses, and workers in the global trading system, ensuring that America gets the benefit of the rules and market access we have negotiated in our international trade agreements,”** said Ambassador Froman. **“WTO Members must use trade remedies strictly in accordance with their commitments, and we hope that this win will discourage further violations that hurt American exporters.”**

**“When U.S. producers or exporters face antidumping or countervailing duty investigations abroad, the Department of Commerce stands ready to help them understand their rights and secure a fair process,”** said Secretary Pritzker. **“My Department was proud to work with USTR in addressing this misuse of trade remedies by China. In the U.S., we work hard to ensure that our investigations into unfair trade actions are transparent, procedurally fair to all parties, and consistent with our WTO obligations. We expect nothing less for the U.S. industry in foreign trade remedy investigations. We are committed to ensuring that other countries play by the rules and will continue to work with USTR to achieve that goal.”**

**“Agricultural exports continue to be a strong and growing component of U.S. exports. Farm exports in fiscal year 2012 reached \$135.8 billion and supported 1 million jobs here at home. More than \$23 billion worth of those agricultural products went to China alone. But China’s**

**prohibitive duties on broiler products were followed by a steep decline in exports to China – and now we look forward to seeing China’s market for broiler products restored,”** said Secretary Vilsack. **“This is an important victory today for the U.S. poultry industry, and for American farmers and ranchers.”**

This is the second of three recent WTO disputes in which the United States has challenged important flaws in China’s administration of its antidumping and countervailing duty measures. The United States has prevailed in the first two disputes, on a specialty steel product and now on chicken broiler products, and is actively litigating a third regarding automobiles.

### **Background:**

On September 27, 2009, China’s Ministry of Commerce (MOFCOM) initiated antidumping and countervailing investigations of imports of so-called “broiler products” from the United States. Broiler products include most chicken products, with the exception of live chickens and a few other chicken products such as cooked and canned chicken. MOFCOM imposed antidumping and countervailing duties on these products on September 26, 2010 and August 30, 2010, respectively. The antidumping duties ranged from 50.3 percent to 53.4 percent for the U.S. producers who responded to MOFCOM’s investigation notice, while MOFCOM set an “all others” rate of 105.4 percent. In the CVD investigation, MOFCOM imposed countervailing duties ranging between 4.0 percent and 12.5 percent for the participating U.S. producers and an “all others” rate of 30.3 percent.

On September 20, 2011, the United States requested dispute settlement consultations with China concerning the conduct and results of MOFCOM’s antidumping and countervailing duty investigations. After consultations proved unsuccessful, the United States requested that the WTO establish a panel to hear U.S. claims that China violated numerous procedural and substantive obligations under the WTO’s Antidumping Agreement and Agreement on Subsidies and Countervailing Measures.

In its report, the Panel found in favor of the United States on nearly all U.S. claims.

Specifically, with regard to MOFCOM’s substantive errors, the Panel found that China breached its WTO obligations by:

- Levying countervailing duties on U.S. producers in excess of the amount of subsidization;
- Relying on flawed price comparisons for its determination that China’s domestic industry had suffered injury;
- Unjustifiably declining to use the books and records of two major U.S. producers in calculating their costs of production; failing to consider any of the alternative allocation methodologies presented by U.S. producers and instead using a weight-based methodology resulting in high dumping margins; improperly allocating distinct processing costs to other products inflating dumping margins; and allocating one producer’s costs in producing non-exported products to exported products creating an inflated dumping margin; and
- Improperly calculating the “all others” dumping margin and subsidy rates.

With respect to procedural failings in the MOFCOM investigations, the Panel found that China breached its WTO obligations by:

- Denying a hearing request during the investigation;
- Failing to require the Chinese industry to provide non-confidential summaries of information it provided to MOFCOM;
- Failing to disclose essential facts to U.S. companies including how their dumping margins were calculated.

See a copy of the Panel's report [here](#).

The United States may request adoption of the panel report by the WTO's Dispute Settlement Body. Both parties have the right to appeal issues of law or legal interpretation in the panel report to the WTO Appellate Body.

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