

The Honorable Katherine Tai
United States Trade Representative
600 17th Street NW
Washington, DC 20508

September 20, 2022

Dear Ambassador Tai,

We are writing to express our strong support for the U.S. government to engage with other WTO members to establish and operate a functioning dispute settlement system – including by reforming the appeal system – and make improvements to the Dispute Settlement Understanding (DSU) system that would help support a rules-based agricultural trading system.

We recognize USTR's concerns with some aspects of the Appellate Body's decision-making, and we support negotiating appropriate DSU reforms to ensure that WTO members adhere to their WTO obligations. However, the current lengthy impasse over the Appellate Body continues to take a toll on the U.S. agriculture sector and will only further undermine export opportunities for U.S. farmers, as other WTO Members fail to abide by WTO rules.

The WTO agreements are a triumph for agriculture and food security, enabling global agricultural trade to expand rapidly over the past 25 years. U.S. agriculture exports, however, face unwarranted trade barriers in many export markets. Governments often impose these barriers to protect domestic producers or in response to misguided health and safety concerns through sanitary and phytosanitary (SPS) measures. Having a fair and functioning dispute settlement system, including the threat of formal dispute settlement, are fundamentally important for the future of the WTO. However, since 2016, the United States has not taken any formal disputes related to agriculture, despite many examples of non-compliance (cf. USTR's National Trade Estimate reports).

In our view, the response to non-compliance should be stepped up enforcement, including under the DSU. Without a functioning appeal system, resolving issues will be far more challenging, and in many cases impossible. As a critical economic engine in the United States, U.S. agriculture has numerous offensive interests in preventing WTO non-compliance in export markets. We need a legally predictable system where losing parties cannot simply block adverse decisions.

Furthermore, in the dispute settlement reform efforts, the objective should be to make it more difficult for WTO Members to avoid their commitments. We acknowledge the importance of addressing Appellate Body overreach to the extent that it occurs, but it is equally important to ensure that the enforcement mechanism is robust and effective.

We encourage USTR to prioritize reforms to the DSU to ensure compliance with WTO commitments. Indefinitely extending the block on Appellate Body appointments or agreeing to reforms that weaken the enforcement mechanism will have the opposite effect to the detriment of U.S. agriculture producers, the broader agriculture sector, and global food security. We would welcome the opportunity to work with you to ensure that the dispute settlement reform efforts take into account the perspectives of the globally competitive U.S. agriculture sector.

Sincerely,

Almond Alliance
American Seed Trade Association
American Soybean Association
Corn Refiners Association
CropLife America
International Dairy Foods Association
National Milk Producers Federation
U.S. Dairy Export Council
U.S. Grains Council
U.S. Soybean Export Council
U.S. Wheat Associates
USA Poultry & Egg Export Council
USA Rice

cc. The Honorable Thomas J. Vilsack, Secretary of Agriculture