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CANADA – MEASURES ON CERTAIN PRODUCTS OF CHINESE ORIGIN

REQUEST FOR CONSULTATIONS BY CHINA

Addendum

The following communication, dated 7 March 2025, from the delegation of China to the delegation of Canada, is circulated to the Dispute Settlement Body in accordance with Article 4.4 of the DSU.

1. My authorities have instructed me to request further consultations with the Government of Canada pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), and Article XXIII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") with respect to surtax measures on certain products of Chinese origin, including, *inter alia*, Chinese-made electric vehicles ("EVs"), steel and aluminum products, batteries and battery parts, solar products, critical minerals, semiconductors, permanent magnets, and natural graphite from China. This addendum supplements and does not replace China's request for consultations with Canada dated 6 September 2024¹.

I. MEASURES AT ISSUE

2. Subsequent to the request for consultations dated 6 September 2024, the Government of Canada officially imposed a 100 percent surtax on all Chinese-made EVs on 1 October 2024, and a 25 percent surtax on imports of steel and aluminum products from China on 22 October 2024. Moreover, from 10 September 2024 to 10 October 2024, the Government of Canada has held public consultations on potential surtaxes on products in a number of other sectors when imported from China, including batteries and battery parts, semiconductors, solar products, and critical minerals. The Government of Canada has concluded the said consultations and announced that additional tariffs on such products from China would be introduced in 2025 to 2026.

3. The measures at issue, which disregard WTO rules and are discriminatory and protectionist measures in nature, apply only to Chinese products, and the surtaxes imposed are in excess of Canada's bound rates in its Schedule of Concessions and Commitments annexed to the GATT 1994.

4. The measures at issue include, *inter alia*:

4.1 Section 53 of the Customs Tariff Act.

4.2 Actions by the Government of Canada announcing its intent to impose surtaxes or additional restrictive measures on Chinese imports in EVs, steel and aluminum, and other economic sectors, including but not limited to:

¹ The request for consultations was circulated on 11 September 2024 in document WT/DS627/1, G/L/1534.

4.2.1 Announcement of a 30-day consultation on potential policy responses to Chinese EVs²;

4.2.2 Announcement by the Government of Canada of its intention to impose surtaxes on imports of Chinese-made EVs and steel and aluminum products from China and measures concerning other sectors including batteries and battery parts, semiconductors, solar products, and critical minerals³;

4.2.3 Launch of a 30-day consultation on potential surtaxes on certain Chinese goods in the sectors of batteries and battery parts, semiconductors, solar products and critical minerals⁴;

4.2.4 The 2024 Fall Economic Statement by the Government of Canada announcing Canada's intent to impose tariffs on certain solar products and critical minerals from China in early 2025, and tariffs on semiconductors, permanent magnets, and natural graphite from China beginning in 2026⁵.

4.3 Actions by the Government of Canada implementing a 100% surtax on Chinese-made EVs, including but not limited to:

4.3.1 Release of the list of Chinese-made EVs subject to the 100 percent surtax⁶;

4.3.2 China Surtax Order (2024): SOR/2024-187, together with the Regulatory Impact Analysis Statement released with the order⁷;

4.3.3 Customs Notice 24-32: China Surtax Order (2024) – Electric vehicles, providing information on the introduction and application of the China Surtax Order (2024) regarding surtaxes on EVs⁸;

4.3.4 Process for requesting remission of surtaxes that apply on certain goods from China⁹;

² See News Release of the Department of Finance Canada, dated 24 June 2024, available at <https://www.canada.ca/en/department-finance/news/2024/06/canada-announces-consultation-to-protect-canadian-workers-and-electric-vehicle-supply-chains-from-unfair-chinese-trade-practices.html>. See also the consultation status page, modified as of 2 August 2024, available at <https://www.canada.ca/en/department-finance/programs/consultations/2024/consultations-on-potential-policy-responses-to-unfair-chinese-trade-practices-in-electric-vehicles.html>.

³ See News Release of the Department of Finance Canada, dated 26 August 2024, available at <https://www.canada.ca/en/department-finance/news/2024/08/canada-implementing-measures-to-protect-canadian-workers-and-key-economic-sectors-from-unfair-chinese-trade-practices.html>.

⁴ See "Consultations on potential surtaxes in response to unfair Chinese trade practices in critical manufacturing sectors" issued by the Department of Finance Canada, modified as of 10 September 2024, with an annex of proposed critical manufacturing sector tariff items, available at <https://www.canada.ca/en/department-finance/programs/consultations/2024/consultations-on-potential-surtaxes-in-response-to-unfair-chinese-trade-practices-in-critical-manufacturing-sectors/consultations-potential-surtaxes-response-unfair-chinese-trade-practices-critical-manufacturing-sectors.html>. See also News Release of the Department of Finance Canada, modified as of 10 September 2024, available at: <https://www.canada.ca/en/department-finance/news/2024/09/canada-consults-on-measures-to-protect-canadian-workers-in-critical-manufacturing-sectors-from-unfair-chinese-trade-practices.html>. See also the consultation status page, modified as of 11 October 2024, available at <https://www.canada.ca/en/department-finance/programs/consultations/2024/consultations-on-potential-surtaxes-in-response-to-unfair-chinese-trade-practices-in-critical-manufacturing-sectors.html>.

⁵ See "2024 Fall Economic Statement" issued by the Department of Finance Canada, dated 16 December 2024, pp. 150-151, available at <https://www.budget.canada.ca/update-miseajour/2024/home-accueil-en.html>.

⁶ See administrative advice issued by the Department of Finance Canada, Surtax on Chinese-made Electric Vehicles, dated 26 August 2024, with the specific products subject to the surtax listed therein, available at <https://www.canada.ca/en/department-finance/news/2024/08/surtax-on-chinese-made-electric-vehicles.html>.

⁷ See China Surtax Order (2024): SOR/2024-187, Canada Gazette, Part II, Volume 158, Number 21, effective 1 October 2024, available at <https://www.gazette.gc.ca/rp-pr/p2/2024/2024-10-09/html/sor-dors187-eng.html>.

⁸ See Customs Notice 24-32: China Surtax Order (2024) – Electric vehicles, last updated on 11 December 2024, available at <https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn24-32-eng.html>.

⁹ See "Process for requesting remission of surtaxes that apply on certain goods from China", dated 18 October 2024, available at <https://www.canada.ca/en/department-finance/programs/international-trade->

4.3.5 China Surtax Remission Order (2024): SOR/2025-12, together with the Regulatory Impact Analysis Statement released with the order¹⁰;

4.3.6 Customs Notice 25-05: China Surtax Remission Order, clarifying details of the remission order¹¹.

4.4 Actions by the Government of Canada implementing a 25% surtax on imports of steel and aluminum products from China, including but not limited to:

4.4.1 Release of the final list of Chinese steel and aluminum products subject to the 25 percent surtax¹²;

4.4.2 Notice of intent to impose surtaxes on Chinese steel and aluminum products¹³;

4.4.3 Order Amending the China Surtax Order (2024): SOR/2024-202, together with the Regulatory Impact Analysis Statement released with the order¹⁴;

4.4.4 Customs Notice 24-36: China Surtax Order (2024) – Steel and Aluminum, providing information on the application of the order regarding surtaxes on steel and aluminum products^{15 16}.

5. This supplemental request for consultations also concerns any modifications, replacements or amendments to the measures identified above, and any closely connected, subsequent or implementing measures, including but not limited to any orders, notices, releases, and announcements that may be introduced in relation to any surtaxes, tariffs, duties or other similar measures to be imposed on, inter alia, EVs, steel and aluminum products, batteries and battery parts, solar products, critical minerals, semiconductors, permanent magnets, natural graphite and any other products imported from China.

II. LEGAL BASIS OF THE COMPLAINT

6. The measures at issue appear to be inconsistent with Canada's obligations under the following provisions of the GATT 1994, including:

6.1 Article I:1 of the GATT 1994, because the measures at issue fail to extend immediately and unconditionally to China an "advantage, favour, privilege or immunity" granted by Canada

[finance-policy/process-requesting-remission-surtaxes-that-apply-on-certain-goods-china.html](https://www.canada.ca/en/department-finance/news/2024/10/canada-announces-tariff-remission-process-for-canadian-businesses-importing-certain-chinese-goods.html). See also News Release of the Department of Finance Canada, dated 18 October 2024, available at <https://www.canada.ca/en/department-finance/news/2024/10/canada-announces-tariff-remission-process-for-canadian-businesses-importing-certain-chinese-goods.html>.

¹⁰ See China Surtax Remission Order (2024): SOR/2025-12, Canada Gazette, Part II, Volume 159, Number 4, effective 31 January 2025, available at <https://www.gazette.gc.ca/rp-pr/p2/2025/2025-02-12/html/sor-dors12-eng.html>.

¹¹ See Customs Notice 25-05: China Surtax Remission Order, last updated on 5 February 2025, available at <https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn25-05-eng.html>.

¹² See "Final list of steel and aluminum products from China that will be subject to a 25 per cent surtax" issued by the Department of Finance Canada, modified as of 1 October 2024, available at <https://www.canada.ca/en/department-finance/news/2024/10/final-list-of-steel-and-aluminum-products-from-china-that-will-be-subject-to-a-25-per-cent-surtax.html>.

¹³ See administrative advice issued by the Department of Finance Canada, Notice of intent to impose surtaxes on Chinese steel and aluminum in response to unfair Chinese trade practices, modified as of 2 October 2024, available at <https://www.canada.ca/en/department-finance/programs/consultations/2024/notice-of-intent-to-impose-surtaxes-on-chinese-steel-and-aluminum-in-response-to-unfair-chinese-trade-practices.html>.

¹⁴ See Order Amending the China Surtax Order (2024): SOR/2024-202, Canada Gazette, Part II, Volume 158, Number 22, effective 22 October 2024, available at <https://www.gazette.gc.ca/rp-pr/p2/2024/2024-10-23/html/sor-dors202-eng.html>.

¹⁵ See Customs Notice 24-36: China Surtax Order (2024)–Steel and Aluminum, modified as of 11 December 2024, available at <https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn24-36-eng.html>.

¹⁶ Measures concerning surtax remission referenced at Paragraphs 4.3.4-4.3.6 and Footnotes 9-11 above are also applicable to surtaxes on steel and aluminum products from China.

"[w]ith respect to customs duties and charges of any kind imposed on or in connection with" the importation of products originating in the territory of other Members.

6.2 Article II:1(a) and (b) of the GATT 1994, because the measures at issue fail to accord to the EVs, steel and aluminum products, and potentially certain solar products, critical minerals, batteries and battery parts, semiconductors, permanent magnets, and natural graphite originating in China the treatment no less favourable than that provided for in Canada's Schedule of Concessions and Commitments annexed to GATT 1994.

7. In addition, and as a consequence of the foregoing, the measures at issue appear to nullify or impair benefits accruing to China, directly or indirectly, under the cited agreements.

8. China reserves the right to raise additional measures and claims regarding the matters identified herein during the course of consultations and in any future request for the establishment of a panel.

9. China looks forward to receiving the reply of the Government of Canada to this request and to setting a mutually convenient date for consultations.
