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Page: 1/6

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CANADA – MEASURES ON CERTAIN PRODUCTS OF CHINESE ORIGIN

REQUEST FOR THE ESTABLISHMENT OF A PANEL BY CHINA

The following communication, dated 12 May 2025, from the delegation of China to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 6 September 2024 the Government of the People's Republic of China ("China") requested consultations with the Government of Canada ("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 customs duty measures relating to certain products of Chinese origin including, *inter alia*, electric vehicles ("EVs") and steel and aluminum products from China.¹ China supplemented its request for consultations pursuant to an Addendum communicated to Canada on 7 March 2025. The Addendum explicitly extended China's concerns to customs duty measures on other products and materials of Chinese origin including, *inter alia*, solar products, critical minerals, semiconductors, permanent magnets, and natural graphite.²

China held consultations with Canada on 7 April 2025. These consultations failed to resolve the dispute.

As a result, and in order to resolve the dispute, China respectfully requests, pursuant to Articles 4.7 and 6 of the DSU and Article XXIII:2 of the GATT 1994, that the Dispute Settlement Body ("DSB") establish a panel to examine this matter, with the standard terms of reference as set out in Article 7.1 of the DSU.

Measures at issue

Canada has initiated measures that are unified by a policy and intention "*to protect Canadian workers and key economic sectors*" against the importation from China of products that are or relate to

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

² The addendum to the request for consultations was circulated on 11 March 2025 in document WT/DS627/1/Add.1, G/L/1534/Add.1.

"electric vehicles";³ "electric vehicle supply chain";⁴ "steel and aluminum supply chains";⁵ "key economic sectors";⁶ "critical industries";⁷ and "critical manufacturing sectors".⁸

The measures at issue include, among others:

- 1 Canada's imposition of a 100% surtax on Chinese-made EVs, carried out through various actions, announcements and instruments leading up to and culminating in:
 - (a) *China Surtax Order (2024): SOR/2024-187*;
 - (b) *Customs Notice 24-32: China Surtax Order (2024) – Electric vehicles*.
- 2 Canada's imposition of a 25% surtax on steel and aluminum products imported from China, carried out through various actions, announcements and instruments leading up to and culminating in:
 - (a) *China Surtax Order (2024) SOR/2024-187*;
 - (b) *Order Amending the China Surtax Order (2024): SOR/2024-202*;
 - (c) *Customs Notice 24-36: China Surtax Order (2024) – Steel and Aluminum*.
- 3 Canada's decision about the imposition of surtaxes and/or tariffs on certain solar products, critical minerals, semiconductors, permanent magnets and natural graphite imported from China, carried out through various actions, announcements and instruments leading up to and culminating in the official announcement by the Department of Finance Canada in Canada's *2024 Fall Economic Statement*, at pp. 150-151.
- 4 Any other measures attributable to Canada seeking to impose surtaxes and/or tariffs on products or materials that originate in China.

The measures at issue also include any amendments or extensions; related measures; replacement measures; renewal measures; and implementing measures of those listed above.

The measures at issue taken by Canada discriminate against the importation into Canada of China-origin products and materials. Specifically, these measures are inconsistent with Canada's obligations to accord most-favoured nation treatment, and treatment no less favourable than that provided for in Canada's *Schedule of Concessions and Commitments* ("Schedule") annexed to the

³ Consultation status page of the Department of Finance Canada, *Consultations on potential policy responses to unfair Chinese trade practices in electric vehicles*, modified as of 2 August 2024, available at <https://www.canada.ca/en/departement-finance/programmes/consultations/2024/consultations-on-potential-policy-responses-to-unfair-chinese-trade-practices-in-electric-vehicles.html>.

⁴ News Release of the Department of Finance Canada, *Consultations on potential surtaxes in response to unfair Chinese trade practices in critical manufacturing sectors*, modified as of 24 June 2024, available at <https://www.canada.ca/en/departement-finance/news/2024/06/canada-announces-consultation-to-protect-canadian-workers-and-electric-vehicle-supply-chains-from-unfair-chinese-trade-practices.html>.

⁵ *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>.

⁶ News Release of the Department of Finance Canada, *Canada implementing measures to protect Canadian workers and key economic sectors from unfair Chinese trade practices*, modified as of 26 August 2024, available at <https://www.canada.ca/en/departement-finance/news/2024/08/canada-implementing-measures-to-protect-canadian-workers-and-key-economic-sectors-from-unfair-chinese-trade-practices.html>.

⁷ News Release of the Department of Finance Canada, *Canada taking further action to protect workers and critical industries against unfair Chinese competition*, modified as of 1 October 2024, available at <https://www.canada.ca/en/departement-finance/news/2024/10/canada-taking-further-action-to-protect-workers-and-critical-industries-against-unfair-chinese-competition.html>.

⁸ Consultation status page of the Department of Finance Canada, *Consultations on potential surtaxes in response to unfair Chinese trade practices in critical manufacturing sectors*, modified as of 10 September 2024, available at <https://www.canada.ca/en/departement-finance/programmes/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>.

GATT 1994, to China with respect to the products and materials concerned, and exceed the duties for those products as provided for in that Schedule.

The instruments that enable and carry out the measures at issue include the legal and administrative enactments, decisions and actions, as identified above and in the Appendix.

Legal basis of the complaint

China considers that the measures at issue, together and individually, are inconsistent with Canada's obligations under the GATT 1994.

- 1 The measures at issue are inconsistent with Article I:1 of the GATT 1994 because the measures fail to accord "*immediately and unconditionally*" to China-origin products an "*advantage, favour, privilege or immunity*" granted by Canada "[w]ith respect to customs duties and charges of any kind imposed on or in connection with" the importation of like products originating in the territories of other Members.

The surtaxes and tariffs fail to accord to China-origin products the most-favoured nation treatment to which they are entitled under Article I:1 of the GATT 1994. Whether officially announcing those surtaxes and tariffs with respect to the products and materials concerned or imposing them on importation, Canada discriminates against China-origin products by not according to them an advantage, favour, privilege or immunity granted by Canada to the importation of like products originating in the territories of other Members. The surtaxes and tariffs concerned, being ordinary customs duties for the purposes of Article I:1, apply only to, and are directed specifically at, China-origin products, to the exclusion of like products originating in the territories of other Members.

As well, the administrative arrangements associated with the surtaxes and tariffs are "*methods of levying... duties and charges*" and "*rules and formalities*" in connection with the importation of China-origin products that are different and additional to those that apply to like products originating in the territories of other Members, with the effect that those China-origin products are treated less favourably than like products originating in the territories of other Members, contrary to Article I:1 of the GATT 1994.

Accordingly, China submits that Canada's measures at issue, which discriminate against China-origin products and materials by way of imposing surtaxes and tariffs; and by the methods by which those surtaxes and tariffs are levied; and by the rules and formalities applicable to those surtaxes and tariffs, are inconsistent with Article I:1 of the GATT 1994.

- 2 The measures at issue are inconsistent with Article II:1(a) of the GATT 1994 to the extent that the measures fail to accord to the China-origin products and materials concerned "*treatment no less favourable*" than that provided for in Canada's Schedule annexed to the GATT 1994, and are inconsistent with the exemption of such goods from ordinary customs duties in excess of those set forth and provided in that Schedule under Article II:1(b) of the GATT 1994.
 - (a) With respect to EVs for which Canada has bound its ad valorem tariff rate and which are subject to the surtax, Canada's bound ad valorem tariff rates are lower than 100%. The surtax of 100% causes the ad valorem rate of duties imposed on China-origin EVs which are subject to the surtax to exceed the bound rate where applicable.
 - (b) With respect to steel products for which Canada has bound its ad valorem tariff rate and which are subject to the surtax, Canada's bound ad valorem tariff rates are lower than 25%. The surtax of 25% on those steel products causes the ad valorem rate of duties imposed on China-origin steel products subject to that surtax to exceed the bound rate where applicable.
 - (c) With respect to aluminum products for which Canada has bound its ad valorem tariff rate and which are subject to the surtax, Canada's bound ad valorem tariff rates are lower than 25%. The surtax of 25% causes the ad valorem rate of duties imposed on China-origin aluminum products subject to that surtax to exceed the bound rate where applicable.

- (d) To the extent that Canada's officially announced surtaxes and/or tariffs with respect to other China-origin products including certain solar products, critical minerals, semiconductors, permanent magnets, and natural graphite exceed the ad valorem bound rates under Canada's Schedule, they constitute ordinary duties that are inconsistent with those set forth in that Schedule. Whether officially announcing those surtaxes and tariffs with respect to the products and materials concerned or imposing them on importation, Canada treats the commerce of China less favourably than that provided for by its Schedule.

Accordingly, China submits that Canada's measures at issue, announcing duties in the form of surtaxes with respect to the products and materials concerned and imposing them on importation, are inconsistent with Articles II:1(a) and (b) of the GATT 1994.

Request

The measures at issue appear to nullify or impair benefits accruing to China directly or indirectly under the GATT 1994.

China asks that this request be placed on the agenda for the meeting of the Dispute Settlement Body to be held on 23 May 2025.

Appendix

The instruments that enable and carry out the measures at issue include the legal and administrative enactments, decisions and actions referred to in the below table, any preparatory documents, accompaniments, annexes, modifications, replacements, implementations and amendments to those enactments, decisions and actions, and any closely connected, subsequent, implementing and related measures, including any other instruments, orders, notices, publications, releases, reports, statements, and announcements introduced, published, conducted or actioned in relation to any customs duties or charges imposed or to be imposed, and any methods, rules and formalities introduced or to be introduced in the future, in connection with the importation or sale of EVs, steel and aluminum products, solar products, critical minerals, semiconductors, permanent magnets, and natural graphite originating in China.

No.	Instrument	Date
1.	Canada <i>Customs Tariff</i> (C. 1997, c. 36), Section 53, <i>Special Measures</i> , available at https://laws-lois.justice.gc.ca/eng/acts/c-54.011/FullText.html	Assented to on 8 December 1997
2.	News Release of the Department of Finance Canada, <i>Canada announces consultation to protect Canadian workers and electric vehicle supply chains from unfair Chinese trade practices</i> , 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	24 June 2024 (date modified: 24 June 2024)
3.	Consultation status page of the Department of Finance Canada, <i>Consultations on potential policy responses to unfair Chinese trade practices in electric vehicles</i> , 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	Undated (date modified: 2 August 2024)
4.	News Release of the Department of Finance Canada, <i>Canada implementing measures to protect Canadian workers and key economic sectors from unfair Chinese trade practices</i> , 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	26 August 2024 (date modified: 26 August 2024)
5.	Administrative advice issued by the Department of Finance Canada, <i>Surtax on Chinese-made Electric Vehicles</i> , available at https://www.canada.ca/en/department-finance/news/2024/08/surtax-on-chinese-made-electric-vehicles.html	Undated (date modified: 26 August 2024)
6.	Consultation status page of the Department of Finance Canada, <i>Consultations on potential surtaxes in response to unfair Chinese trade practices in critical manufacturing sectors</i> , 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	Undated (date modified: 10 September 2024)
7.	News Release of the Department of Finance Canada, <i>Canada consults on measures to protect Canadian workers in critical manufacturing sectors from unfair Chinese trade practices</i> , 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	10 September 2024 (date modified: 10 September 2024)
8.	<i>China Surtax Order (2024): SOR/2024-187</i> , available at https://laws.justice.gc.ca/PDF/SOR-2024-187.pdf	Registered 20 September 2024 (last amended on 22 October 2024)
9.	<i>China Surtax Order (2024): SOR/2024-187</i> , including the Regulatory Impact Analysis Statement, Canada Gazette, Part II, Volume 158, Number 21, available at https://www.gazette.gc.ca/rp-pr/p2/2024/2024-10-09/html/sor-dors187-eng.html	Published 20 September 2024
10.	<i>Customs Notice 24-32: China Surtax Order (2024) – Electric vehicles</i> , available at https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn24-32-eng.html	27 September 2024 (date modified: 11 December 2024)
11.	Administrative advice issued by Department of Finance Canada, <i>Final list of steel and aluminum products from China that will be subject to a 25 per cent surtax</i> , 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	Undated (date modified: 1 October 2024)

No.	Instrument	Date
12.	News Release of the Department of Finance, <i>Canada taking further action to protect workers and critical industries against unfair Chinese competition</i> , available at https://www.canada.ca/en/department-finance/news/2024/10/canada-taking-further-action-to-protect-workers-and-critical-industries-against-unfair-chinese-competition.html	1 October 2024 (date modified: 1 October 2024)
13.	Administrative advice issued by the Department of Finance Canada, <i>Notice of intent to impose surtaxes on Chinese steel and aluminum in response to unfair Chinese trade practices</i> , 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	Undated (date modified: 2 October 2024)
14.	<i>Order Amending the China Surtax Order (2024): SOR/2024-202</i> , including the Regulatory Impact Analysis Statement, Canada Gazette, Part II, Volume 158, Number 22, , available at https://www.gazette.gc.ca/rp-pr/p2/2024/2024-10-23/html/sor-dors202-eng.html	Registered 11 October 2024
15.	Consultation status page of the Department of Finance Canada, <i>Consultations on potential surtaxes in response to unfair Chinese trade practices in critical manufacturing sectors</i> , 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	Undated (date modified: 11 October 2024)
16.	<i>Customs Notice 24-36: China Surtax Order (2024) – Steel and Aluminum</i> , available at https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn24-36-eng.html	18 October 2024 (date modified: 11 December 2024)
17.	News Release of the Department of Finance Canada, <i>Canada announces tariff remission process for Canadian businesses importing certain Chinese goods</i> , 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	18 October 2024 (date modified: 18 October 2024)
18.	Administrative advice issued by the Department of Finance Canada, <i>Process for requesting remission of surtaxes that apply on certain goods from China</i> , available at https://www.canada.ca/en/department-finance/programs/international-trade-finance-policy/process-requesting-remission-surtaxes-that-apply-on-certain-goods-china.html	Undated (date modified: 18 October 2024)
19.	Report issued by the Department of Finance Canada, <i>2024 Fall Economic Statement</i> , at pp. 150-151, available at https://www.budget.canada.ca/update-miseajour/2024/home-accueil-en.html	16 December 2024
20.	<i>China Surtax Remission Order (2024): SOR/2025-12</i> , including the Regulatory Impact Analysis Statement, Canada Gazette, Part II, Volume 159, Number 4, available at https://www.gazette.gc.ca/rp-pr/p2/2025/2025-02-12/html/sor-dors12-eng.html	Registered 31 January 2025
21.	<i>Customs Notice 25-05: China Surtax Remission Order</i> , available at https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn25-05-eng.html	4 February 2025 (date modified: 24 March 2025)
22.	<i>Order Amending the China Surtax Remission Order (2024): SOR/2025-114</i> , including the Regulatory Impact Analysis Statement, Canada Gazette, Part II, Volume 159, Number 8, available at https://gazette.gc.ca/rp-pr/p2/2025/2025-04-09/html/sor-dors114-eng.html	Registered 23 March 2025