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CANADA – MEASURES ON CERTAIN PRODUCTS OF CHINESE ORIGIN

REQUEST FOR CONSULTATIONS BY CHINA

The following communication, dated 6 September 2024, 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 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, *inter alia*, Chinese-made Electric Vehicles ("EVs") and steel and aluminum products from China.

2. On 26 August 2024, the federal government of Canada announced a series of surtax measures under Section 53 of the Customs Tariff Act with respect to certain Chinese products, including a 100 percent surtax on all Chinese-made EVs, effective on 1 October 2024, and a 25 percent surtax on imports of steel and aluminum products from China, effective on 15 October 2024. 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 on Chinese-made EVs and steel and aluminum products are in excess of Canada's bound rates in its Schedule of Concessions and Commitments annexed to the GATT 1994.

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

- Section 53 of the Customs Tariff Act;
- Actions by the Government of Canada implementing measures in EVs, steel and aluminum, and other economic sectors¹;
- Actions by the Government of Canada implementing a 100% surtax on Chinese-made Electric Vehicles²;

¹ See News Release from Department of Finance Canada, 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>.

² See "Surtax on Chinese-made Electric Vehicles" issued by Department of Finance Canada, 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>. See also News Release from Department of Finance Canada, 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>.

- Actions by the Government of Canada implementing a 25% surtax on imports of steel and aluminum products from China³.

4. This request of consultations also concerns any modification, replacement or amendments to the measures identified above, and any closely connected, subsequent or implementing measures.

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

- 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 "[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.
- Article II:1(a) and (b) of the GATT 1994, because the measures at issue fail to accord to the EVs and steel and aluminum products originating in China the treatment no less favourable than that provided for in Canada's Schedule of Concessions and Commitments annexed to GATT 1994.

6. 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.

7. 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.

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

³ See "Surtax on imports of steel and aluminum products from China" issued by Department of Finance Canada, available at <https://www.canada.ca/en/department-finance/news/2024/08/surtax-on-imports-of-steel-and-aluminum-products-from-china.html>. See also "Notice of intent to impose surtaxes on Chinese steel and aluminum in response to unfair Chinese trade practices" issued by Department of Finance Canada, with the specific products subject to the surtax listed therein, 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>.