



23 May 2025

(25-3452)

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Original: English

**CHINA – ADDITIONAL IMPORT DUTIES
ON CERTAIN AGRICULTURAL AND FISHERY PRODUCTS FROM CANADA**

COMMUNICATION FROM CANADA

The following communication, dated 22 May 2025, was received from the delegation of Canada with the request that it be circulated to the Dispute Settlement Body (DSB).

Canada writes with reference to its request for establishment of a panel in the above named dispute and further to China's letter concerning Canada's request dated May 16, 2025. Canada considers that it is well within its right to make its request for the establishment of a panel at the next DSB meeting on May 23, 2025.

The measures at issue in the dispute are additional duties imposed by China on imports of Canadian agricultural and fishery products. China announced the imposition of those additional duties on March 8, 2025, and the additional duties came into effect on March 20, 2025. The effect of China's measures is that Canadian exports to China of the affected products were already in shipment when the additional duties were announced. The duties apply to food products, including shipments of fresh and frozen goods.

These goods are, by definition, "perishable goods", within the meaning of Articles 4.8 and 12.8 of the DSU.

With respect to perishable goods, Article 4.8 states:

In cases of urgency, including those which concern perishable goods, Members **shall** enter into consultations within a period of no more than 10 days after the date of receipt of the request. If the consultations have failed to settle the dispute within a period of 20 days after the date of receipt of the request, the complaining party may request the establishment of a panel. [Emphasis added]

Canada's request for consultations was delivered to China on March 20, 2025. As a result, Canada has been in a position to request a dispute settlement panel since April 9, 2025. Despite the assertions in China's letter to you of May 16, 2025, there is no requirement for the complaining and responding parties to agree that perishable goods such as the ones affected by China's additional duties are, in fact, perishable goods within the meaning of Article 4.8. On the contrary, the text indicates that in cases of urgency, including perishable goods, the Members "shall" enter into consultations within a specified period of time. Further, the text of Article 4.8 is clear that in cases of urgency (such a perishable goods) the complaining party may request a panel "20 days after the date of receipt of the request." Canada indicated in both its request for consultations and its request for establishment of a panel, that the matter concerned perishable goods, and was therefore an "urgent circumstance" within the meaning of the DSU, and that Canada intended to proceed on the basis of the expedited timelines set out in the DSU.

The text of Article 4.8 can be contrasted with the text of Article 4.7, which indicates that a request for establishment of a panel can be filed under normal circumstances (e.g. when the matter does not concern perishable goods) "if the consulting parties jointly consider that consultations have failed to settle the dispute." Article 4.8 does not require that the parties jointly consider that the matter is

urgent, and again specifically notes that "urgent circumstances" include cases that "concern perishable goods."

Canada maintains that it is fully within its rights to request establishment of a panel at the May 23 DSB meeting due to the perishable nature of the products in question. However, given the objection placed before the chair, in the interests of minimizing procedural wrangling and as a gesture of good faith, Canada hereby withdraws its request for establishment of a panel in DS636 from the agenda for the May 23 DSB meeting.
