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Page: 1/2

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

COMMUNICATION FROM CHINA

The following communication, dated 16 May 2025, was received from the delegation of China with the request that it be circulated to the Dispute Settlement Body (DSB).

China writes with reference to Canada's request for the establishment of a panel in the abovementioned dispute.¹

In paragraph 5 of Canada's request for establishment it is stated that "*Canada considers that the expedited timelines set out in Articles 4.8 and 12.8 of the DSU apply*". China disagrees with Canada's assertion, same as reflected in China's acceptance letter to Canada's request for consultations dated 31 March 2025, that "*the products covered by China's additional import duties are agricultural and fishery products which are, by their very nature, perishable goods*", and strongly opposes Canada's request for the establishment of a panel within 60 days of the request for consultations as well as its request to have the request placed on the agenda of the DSB meeting scheduled to be held on 23 May 2025.

Firstly, as to the requirements for an expedited process under Article 4.8, China notes that Article 4.8 is a rule about "*cases of urgency*", which cannot relate simply to the propensity of a product to perish, but rather must arise from the facts about the perishable goods and their conveyance, i.e., whether perishable products in their supply chain are in actual danger of perishing, and could not be prevented from perishing, thus constituting a case of urgency.

Secondly, Canada's determination of the existence of a "*case[] of urgency*", using the facts of the case at hand, relies solely on China's legal categorization of the products. Canada supposes that the legal classification of goods under China's own tariff schedule as "*agricultural products*" obviates the need for it to be established (a) that the goods are perishable and (b) that the case is urgent. China submits to Members that this cannot be the correct approach. Both of these factors condition the operation of Article 4.8 and cannot be ignored.

Thirdly, Canada includes "*canola seed oil, oil residue cake, and peas*" and "*certain seafood and pork products*" in its request for establishment. At least not all of those products would be, or a majority of the products at issue would not be, susceptible to a claim of "*urgency*" with respect to perishability. For example, canola seed oil is a shelf-stable product, not a perishable product, and one wonders whether urgency of importation could ever apply to such a product. A complainant Member that invokes Article 4.8 in the one request for establishment, with respect to some products that are perishable and others that are not, undermines the responding Member's procedural rights under the DSU. This is because any authorization for expedition would then extend to a part of the proceedings that was not entitled to be expedited.

Fourthly, additional tariff measures like those at issue do not block the access of products into markets. In that important respect the effect of tariff measures are entirely different to, say, SPS or TBT measures, because there is no import prohibition involved and no impediment to the physical

¹ Canada's request for establishment was circulated on 13 May 2025 in document WT/DS636/2.

and temporal movement of the products concerned. In such circumstances the products cannot be expected to be held up, and the central justification for urgency concerning the products cannot arise or exist.

Fifthly, even in a case involving the blockage of products, it is well understood that modern logistics, including the ability to store products and to return products to the point of origin under favourable temperature conditions, will largely negate the urgency contemplated by the condition. Products of the type referred to by Canada in this case can be prevented from spoiling, decaying, or becoming unsafe to eat, by, for example, preservation of the conditions in which they exist, or further refrigeration, or freezing, or being returned to their point of origin in a timely fashion.

Thus, China reiterates its serious concern towards and strongly opposes Canada's request for the establishment of a panel. The request does not comply with the 60 day period requirement provided for in Article 4.7 of the DSU.
