



## UNITED STATES – TARIFF MEASURES ON CERTAIN GOODS FROM CHINA

### REQUEST FOR CONSULTATIONS BY CHINA

The following communication, dated 4 April 2018, from the delegation of China to the delegation of the United States and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Government of the United States pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994) concerning the proposed tariff measures that the United States accords to certain goods in various sectors including machinery, electronics, etc. originating in China.

On 22 March 2018, the United States published related documents of the Section 301 investigations against China. On 3 April, the United States published a list of products of Chinese origin, as identified in the Annex to the Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301, that an additional ad valorem duty of 25 percent are proposed to be imposed on. The proposed duties would be only applied to China's products and in excess of the United States's bound rates in its Schedule of Concessions and Commitments annexed to the GATT 1994.

The legal documents through which the United States implements its proposed tariff measures include:

1. Section 301-310 of the Trade Act of 1974, as amended (19 U.S.C., paragraphs 2411-2420);
2. Findings of the investigation into China's acts, policies and practices related to technology transfer, intellectual property and innovation under Section 301 of the Trade Act of 1974, dated 22 March 2018;
3. Actions by the United States Related to the Section 301 Investigation of China's Laws, Policies, Practices, or Actions Related to Technology Transfer, Intellectual Property, and Innovation, dated 22 March 2018;
4. Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, dated 3 April 2018.

This request for consultations also concerns any amendments, or related, successor, replacement, or implementing measures to the measures identified above.

These measures appear to be inconsistent with the relevant provisions of the WTO covered agreements including:

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

the United States "[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.

2. Article II.1(a) and (b) of the GATT 1994, because the measures at issue fail to accord to the products originating in China identified in the above mentioned documents the treatment no less favourable than that provided for in the United States's Schedule of Concessions and Commitments annexed to the GATT 1994.
3. Article 23 of the DSU, because the measures at issue fail to recourse to, and abide by, the rules and procedures of the DSU, when the United States seek the redress of a violation of obligation or other nullification or impairment of benefits under the covered agreements or an impediment to the attainment of any objective of the covered agreements.

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.

China reserves the right to raise additional claims and legal matters regarding the above-mentioned measures during the course of the consultations.

We look forward to receiving your reply to the present consultations request and to scheduling a mutually convenient date for consultations.

---