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CHINA - EXPORT DUTIES ON CERTAIN RAW MATERIALS

REQUEST FOR CONSULTATIONS BY THE UNITED STATES

The following communication, dated 13 July 2016, from the delegation of the United States to the delegation of China 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 People's Republic of China ("China") pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") and Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") with respect to China's export duties on various forms of antimony, cobalt, copper, graphite, lead, magnesia, talc, tantalum, and tin.¹

The legal instruments through which China imposes and administers these export duties, operating separately or collectively, include but are not limited to:

- *Foreign Trade Law of the People's Republic of China* (adopted at the 8th Session of the Standing Committee of the Tenth National People's Congress on 6 April 2004, effective 1 July 2004)
- *Customs Law of the People's Republic of China* (adopted at the 19th Meeting of the Standing Committee of the Sixth National People's Congress on 22 January 1987, amended 28 December 2013, in Order No. 8)
- *Regulation of the People's Republic of China on Import and Export Duties* (State Council, Order No. 392, adopted at the 26th executive meeting of the State Council on 29 October 2003, amended 6 February 2016, in Order No. 666)
- *State Council Customs Tariff Commission Notice on Issuing the 2016 Tariff Adjustment Plan* (State Council Customs Tariff Commission, Shui Wei Hui [2015] No. 23, issued 4 December 2015, effective 1 January 2016) (the "2016 Tariff Adjustment Plan")
- *General Administration of Customs Notice on the 2016 Tariff Implementation Plan* (General Administration of Customs, Zong Shu Gong Gao [2015] No. 69, issued 28 December 2015, effective 1 January 2016)

as well as any amendments, or related, successor, replacement, or implementing measures.

China's export duties on various forms of antimony, cobalt, copper, graphite, lead, magnesia, talc, tantalum, and tin appear to be inconsistent with Paragraph 11.3 of Part I of the *Protocol on the Accession of the People's Republic of China* (WT/L/432) ("Accession Protocol") because China has not eliminated all taxes or charges applied to exports of those products, and China's export duties are not specifically provided for in Annex 6 of the Accession Protocol.

¹ The forms of antimony, cobalt, copper, graphite, lead, magnesia, talc, tantalum, and tin subject to duties include, but are not limited to, those listed in the attached Annex.

China's measures also appear to nullify or impair the benefits accruing to the United States directly or indirectly under the Accession Protocol. Pursuant to Paragraph 1.2 of Part I of the Accession Protocol and Article XII:1 of the *Agreement Establishing the World Trade Organization* ("WTO Agreement"), the Accession Protocol is an integral part of the WTO Agreement.

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

ANNEX

Antimony: Forms of antimony subject to this request include, but are not limited to, items falling under the following eight-digit Chinese Customs Commodity Code identified in the 2016 Tariff Adjustment Plan: 26171090.

Cobalt: Forms of cobalt subject to this request include, but are not limited to, items falling under the following eight-digit Chinese Customs Commodity Code identified in the 2016 Tariff Adjustment Plan: 26050000.

Copper: Forms of copper subject to this request include, but are not limited to, items falling under the following eight-digit Chinese Customs Commodity Codes identified in the 2016 Tariff Adjustment Plan: 26030000 and 74010000.

Graphite: Forms of graphite subject to this request include, but are not limited to, items falling under the following eight-digit Chinese Customs Commodity Codes identified in the 2016 Tariff Adjustment Plan: 25041010, 25041099, and 25049000.

Lead: Forms of lead subject to this request include, but are not limited to, items falling under the following eight-digit Chinese Customs Commodity Codes identified in the 2016 Tariff Adjustment Plan: 78011000 and 78020000.

Magnesia: Forms of magnesia subject to this request include, but are not limited to, items falling under the following eight-digit Chinese Customs Commodity Codes identified in the 2016 Tariff Adjustment Plan: 25191000, 25199010, 25199020, 25199030, 25199099, and 25309099.

Talc: Forms of talc subject to this request include, but are not limited to, items falling under the following eight-digit Chinese Customs Commodity Codes identified in the 2016 Tariff Adjustment Plan: 25261020, 25262020, and 38249091.

Tantalum: Forms of tantalum subject to this request include, but are not limited to, items falling under the following eight-digit Chinese Customs Commodity Code identified in the 2016 Tariff Adjustment Plan: 81033000.

Tin: Forms of tin subject to this request include, but are not limited to, items falling under the following eight-digit Chinese Customs Commodity Codes identified in the 2016 Tariff Adjustment Plan: 80011000 and 80020000.
