

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.<sup>1</sup>

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 April 6, 2004, effective July 1, 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 January 22, 1987, amended December 28, 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 October 29, 2003, amended February 6, 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 December 4, 2015, effective January 1, 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 December 28, 2015, effective January 1, 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.

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.

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<sup>1</sup> 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.

## **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.