

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* and Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), with respect to China's restrictions on the export of various forms of antimony, chromium, indium, magnesia, talc, and tin. This request supplements and does not replace the U.S. request for consultations with China dated July 13, 2016, on other export restrictions.<sup>1</sup>

China imposes export duties on various forms of chromium.<sup>2</sup>

China imposes quantitative restrictions such as quotas on the export of various forms of antimony, indium, magnesia, talc, and tin.<sup>3</sup>

China imposes additional requirements and procedures in connection with the administration of the quantitative restrictions on various forms of antimony, indium, magnesia, talc, and tin, including but not limited to restrictions on the right to export such as prior export requirements.

Further, it appears that China administers these quantitative restrictions on various forms of antimony, indium, magnesia, talc, and tin and the requirements and procedures in connection with these quantitative restrictions in a manner that is not uniform, impartial, reasonable, or transparent.

The legal instruments through which China imposes export duties on various forms of chromium, 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)

---

<sup>1</sup> WT/DS508/1.

<sup>2</sup> The forms of chromium subject to duties include, but are not limited to, items falling under the Chinese Customs Commodity Codes identified in the *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) as listed in the attached Annex.

<sup>3</sup> The forms of antimony, indium, magnesia, talc, and tin subject to quantitative restrictions include, but are not limited to, items falling under the Chinese Customs Commodity Codes identified in the *Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76 on Announcing the "2016 Export Licensing Management Commodities Catalogue"* (Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76, issued December 29, 2015, effective January 1, 2016) as listed in the attached Annex.

- *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)
- *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.

The legal instruments through which China imposes and administers quantitative restrictions on the export on various forms of antimony, indium, magnesia, talc, and tin, 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)
- *Regulation of the People's Republic of China on the Administration of the Import and Export of Goods* (Order of the State Council No. 332, adopted at the 46th executive meeting of the State Council on October 31, 2001, effective January 1, 2002)
- *Measures for the Administration of Licensing for the Export of Goods* (Order of the Ministry of Commerce No. 11, adopted May 7, 2008, effective July 1, 2008)
- *Rules on the Administration of Import and Export License Certificates* (Ministry of Commerce, Shang Wu Bu Ling [2012] No. 1, issued February 4, 2012, effective March 5, 2012)
- *Ministry of Commerce Notice on the Printing and Distributing of the "Working Rules on Issuing Export Licenses"* (Ministry of Commerce, Shang Pei Fa [2008] No. 398, issued October 9, 2008)
- *Ministry of Foreign Trade and Economic Cooperation Notice on Printing and Distributing the "Measures on the Administration of the Organs for Issuing the Licenses of Import and Export Commodities"* (Ministry of Foreign Trade and Economic Cooperation, Wai Jing Mao Pei Guan Han Zi [1999] No. 68, issued September 21, 1999, amended September 12, 2010)
- *Measures for the Administration of Export Commodities Quotas* (Order of the Ministry of Foreign Trade and Economic Cooperation No. 12, issued December 20, 2001, effective January 1, 2002)

- *Measures for Quota Bidding for Export Commodities* (Decree of the Ministry of Foreign Trade and Economic Cooperation No. 11, adopted on December 20, 2001, effective January 1, 2002)
- *Ministry of Foreign Trade and Economic Cooperation Notice on Printing and Distributing the “Implementation Rules of Export Quota Bidding for Industrial Products”* (Ministry of Foreign Trade and Economic Cooperation, Wai Jing Mao Mao Fa [2001] No. 626, issued November 8, 2001)
- *Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76 on Announcing the “2016 Export Licensing Management Commodities Catalogue”* (Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76, issued December 29, 2015, effective January 1, 2016)
- *Ministry of Commerce 2015 Public Notice No. 79 on Announcing the “2016 Graded License-Issuing Catalogue of Commodities Subject to Export License Administration”* (Ministry of Commerce 2015 Public Notice No. 79, issued December 31, 2015, effective January 1, 2016)
- *Ministry of Commerce 2015 Public Notice No. 53 on Announcing the “2016 Agricultural Products and Industrial Product Export Quota Total Amount”* (Ministry of Commerce 2015 Public Notice No. 53, issued October 29, 2015)
- *Ministry of Commerce Notice on Announcing the 2016 List of Tungsten, Antimony, and Silver Exporting State Trading Enterprises and Tungsten, Tin, and Phosphate Rock Export Quota Enterprises* (Ministry of Commerce, issued November 30, 2015)
- *Ministry of Commerce 2015 Public Notice No. 50 on Announcing the “Requirements and Procedures for Applying for Export Quotas of Indium and Tin in 2016”* (Ministry of Commerce 2015 Public Notice No. 50, issued October 28, 2015)
- *Ministry of Commerce 2015 Public Notice No. 49 on Announcing the “Application Requirements and Procedures for Export of Tungsten, Antimony and Silver by State Trading Enterprises in 2016”* (Ministry of Commerce 2015 Public Notice No. 49, issued October 28, 2015)
- *Ministry of Commerce 2015 Public Notice No. 55 on the 2016 Magnesia and Talc Export Quota Bidding Qualifications* (Ministry of Commerce 2015 Public Notice No. 55, issued November 4, 2015)
- *Ministry of Commerce Public Notice on Bid Invitation for the First 2016 Magnesia Export Quota* (Ministry of Commerce, issued November 30, 2015)

- *Ministry of Commerce Public Notice on Bid Invitation for the First 2016 Talc (Powder) Export Quota* (Ministry of Commerce, issued November 30, 2015)
- *Ministry of Commerce Public Notice on Bid Invitation for the Second 2016 Magnesia Export Quota* (Ministry of Commerce, issued July 6, 2016)
- *Ministry of Commerce Public Notice on Bid Invitation for the Second 2016 Talc (Powder) Export Quota* (Ministry of Commerce, issued July 6, 2016)
- *Ministry of Commerce Notice on Announcing the Export Quotas of the First Batch of Industrial Products in 2016* (Ministry of Commerce, Shang Mao Han [2015] No. 1012, issued December 25, 2015)
- *Ministry of Commerce Notice on Announcing the Export Quotas of the Second Batch of Industrial Products in 2016* (Ministry of Commerce, Shang Mao Han [2016] No. 323, issued June 28, 2016)
- *Ministry of Commerce Notice on Supplementing the Export Quotas of the First Batch for Silver and Indium in 2016* (Ministry of Commerce, Shang Mao Han [2016] No. 131, issued March 29, 2016)
- *Ministry of Commerce Notice on Printing and Distributing the “List of Bid-winning Enterprises and Their Quotas in the First Bidding for Export Quotas of Magnesia and Talc in 2016”* (Ministry of Commerce, Shang Mao Pi [2015] No. 1030, issued December 22, 2015)
- *Guidelines of the Ministry of Commerce on Items Requiring Approval [18013] Application Guidelines: Qualification Recognition of State Trading Enterprises for Import and Export of Goods*
- *Application Guidelines: Qualification Recognition of State Trading Enterprises for Import and Export of Goods*
- *Ministry of Foreign Trade and Economic Cooperation Notice on Printing and Distributing the “Provisional Measures on Administration of the Export Operations of Tungsten and Tungsten Products and of Antimony and Antimony Products”* (Ministry of Foreign Trade and Economic Cooperation, Wai Jing Mao Guan Fa [2000] No. 649, issued December 4, 2000, effective January 1, 2001)

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

China’s export duties on various forms of chromium 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 export restrictions in the form of quantitative restrictions and of procedures and requirements in connection with those quantitative restrictions appear to be inconsistent with:

- Article XI:1 of the GATT 1994 and China's obligations under Paragraph 1.2 of Part I of the Accession Protocol, which incorporates commitments in paragraphs 162 and 165 of the Report of the Working Party on the Accession of China (WT/MIN(01)/3) ("Working Party Report"), because these measures constitute export restrictions other than duties, taxes, or other charges; and
- Paragraph 1.2 of Part I of the Accession Protocol, which incorporates commitments in paragraphs 83 and 84 of the Working Party Report, and Paragraph 5.1 of Part I of the Accession Protocol, because these measures limit the right to trade.

In addition, China appears to have acted inconsistently with its obligations under Article X:3(a) of the GATT 1994 and Paragraph 2(A)(2) of Part I of the Accession Protocol because China's application and administration of these measures is done in a manner that is not uniform, impartial, or reasonable.

China's measures also appear to nullify or impair the benefits accruing to the United States directly or indirectly under the cited agreements. 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.

## Annex

**Antimony:** Forms of antimony subject to this request include, but are not limited to, items falling under the following ten-digit Chinese Customs Commodity Codes identified in the *Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76 on Announcing the “2016 Export Licensing Management Commodities Catalogue”* (Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76, issued December 29, 2015, effective January 1, 2016): 2617101000, 2617109001, 2617109090.

**Chromium:** Forms of chromium subject to this request include, but are not limited to, items falling under the following eight-digit Chinese Customs Commodity Codes identified in the *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): 26100000, 81122100, 81122200.

**Indium:** Forms of indium subject to this request include, but are not limited to, items falling under the following ten-digit Chinese Customs Commodity Codes identified in the *Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76 on Announcing the “2016 Export Licensing Management Commodities Catalogue”* (Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76, issued December 29, 2015, effective January 1, 2016): 8112923001, 8112923002, 8112923090, 8112993000.

**Magnesia:** Forms of magnesia subject to this request include, but are not limited to, items falling under the following ten-digit Chinese Customs Commodity Codes identified in the *Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76 on Announcing the “2016 Export Licensing Management Commodities Catalogue”* (Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76, issued December 29, 2015, effective January 1, 2016): 2519100000, 2519901000, 2519902000, 2519903000, 2519909910, 2530909910, 2530909930, 3824909200.

**Talc:** Forms of talc subject to this request include, but are not limited to, items falling under the following ten-digit Chinese Customs Commodity Codes identified in the *Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76 on Announcing the “2016 Export Licensing Management Commodities Catalogue”* (Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76, issued December 29, 2015, effective January 1, 2016): 2526102000, 2526202001, 2526202090, 3824909100.

**Tin:** Forms of tin subject to this request include, but are not limited to, items falling under the following ten-digit Chinese Customs Commodity Codes identified in the *Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76 on Announcing the “2016 Export Licensing Management Commodities Catalogue”* (Ministry of Commerce and General Administration of Customs 2015 Public Notice No. 76, issued December 29, 2015, effective January 1, 2016): 2609000000, 2825903100, 2825903900, 8001100000, 8001201000, 8001202100, 8001202900, 8001209000, 8002000000, 8003000000, 8007002000, 8007004000.