

**UNITED STATES – CERTAIN TAX CREDITS UNDER
THE INFLATION REDUCTION ACT
(DS623)**

**Second Substantive Meeting of the Panel with the Parties
Closing Statement of the United States
August 27, 2025**

1. Ms. Chairperson, Members of the Panel, we thank you for your attention in this dispute.
2. The issues presented in this dispute are of fundamental importance to the United States, as the public morals raised here are deeply held and enduring. They are reflected in provisions of the U.S. Constitution, as well as U.S. laws ranging from the Sherman Act, codified in 1890, to the Uyghur Forced Labor Prevention Act, codified in 2021.
3. China's dismissive comments and feigned confusion regarding U.S. public morals in this dispute are concerning. And unfortunately it appears that China has now retracted its previous expressions of agreement that theft and forced labor are U.S. public morals.¹ Perhaps it is not surprising, then, that China attempts to convince the Panel that U.S. public morals have somehow changed overnight – but U.S. public morals do not flip flop like China's arguments, and in any event, China's argument is unpersuasive.
4. Contrary to China's assertions, U.S. public morals do not come and go with the amendment of a single U.S. law, and the provisions of the Inflation Reduction Act challenged in this dispute are not the only U.S. measures that protect these public morals. As observed in our opening statement, Member may have many tools at its disposal. And one U.S. Administration's choice to use one tool rather than another does not undermine the use of the tax credits at issue – at one point in time – as necessary to protect U.S. public morals at the time this Panel was established.²
5. With respect to whether Article XX(a) requires a measure to concern imported goods that offend public morals, it is clear that the text of Article XX(a) does not require that the measure apply to specific products that are themselves inherently morally offensive. While China may assert that such a requirement is “clearly the intent” of Article XX(a), the text of the provision, in its context, does not support such an alleged intent. And to be clear, what we are talking about in this dispute is not tariffs on toothbrushes. Rather, we are discussing tax credits on clean vehicles and renewable energy products that the United States has demonstrated are impacted by China's non-market policies and practices.³
6. The ability of a Member to use various tools is clear, for example, from remarks of then-Secretary of Commerce Raimondo shortly after the IRA was enacted, which described the Inflation Reduction Act – along with the Bipartisan Infrastructure Act, the CHIPS and Science

¹ Compare China's Second Written Submission, paras. 47 & 76-78 with China's Opening Statement at the Second Panel Meeting, para. 9.

² U.S. Opening Statement at the Second Panel Meeting, para. 12.

³ See, e.g., U.S. Opening Statement at Second Panel Meeting, para. 63; U.S. First Written Submission, para. 97

Act, and other measures – as part of the Biden Administration’s response to “the China challenge.”⁴ The same is also clear from numerous actions by the Trump Administration that preceded the IRA and were effectively continued by the Biden Administration, for example, imposing tariffs on Chinese products in these targeted sectors through Section 301 and other authorities. The second Trump Administration has maintained these actions while seeking yet other tools to effectively protect U.S. public morals. The second Trump Administration has, for example, sought to strengthen partnerships with allies and industry to counter China's growing influence in critical minerals, underscoring its commitment to prohibiting goods made with forced labor in China from entering U.S. supply chains, and noting that a variety of sectors “are threatened by China’s non-market behavior.”

7. It is deeply ironic that China in its opening statement suggests that the United States has targeted for global dominance industries such as pharmaceuticals, aerospace, and semiconductors,⁵ given China’s own actions in these sectors and the evidence before the Panel in this dispute. As the United States has explained, China’s targeting and attainment of dominance of sectors, including through the use of other non-market practices and policies is singularly a China issue. The alleged U.S. “targeting” is nowhere akin to the practices that China engages in, that involves targeting alongside non-market excess capacity, state-directed investment, forced labor, forced technology transfer, and the theft of trade secrets.

8. With respect to pharmaceuticals, as noted in USTR’s 2024 report on the investigation it initiated in 2017 of China’s forced technology transfer, China steals the intellectual property of drugs around diabetes, obesity, and depression; China engaged in a global campaign to steal COVID-19 vaccine data; and Germany’s domestic intelligence agency reported that China’s state-sponsored cybertheft group had launched a campaign of cyberattacks on German businesses, including in the pharmaceutical sector, to steal trade secrets and IP.⁶

9. China’s actions in the aerospace industry tell a similar story. For example, in 2018, the U.S. Department of Justice indicted two Chinese intelligence officers, six of their paid cyber intrusion agents, and two intelligence agents China had placed in a French aerospace company.⁷ Over a five-year period, the Chinese intelligence officers directed the hackers and agents to “facilitate intrusions into computers of companies based in the United States and abroad” to steal IP, including trade secrets, and confidential business information, in the aerospace industry.⁸

⁴ U.S. Department of Commerce, Remarks by U.S. Secretary of Commerce Gina Raimondo on the U.S. Competitiveness and the China Challenge (Nov. 30, 2022) (US-118).

⁵ China’s Opening Statement at the Second Panel Meeting, para. 12.

⁶ Office of the U.S. Trade Representative, “Four-Year Review of Actions Taken in the Section 301 Investigation: China’s Acts, Policies, and Practice Related to Technology Transfer, Intellectual Property, and Innovation” (“Four-Year Review”), May 14, 2024 (US-64), pp. 23, 28, 32.

⁷ Office of the U.S. Trade Representative, “Four-Year Review of Actions Taken in the Section 301 Investigation: China’s Acts, Policies, and Practice Related to Technology Transfer, Intellectual Property, and Innovation” (“Four-Year Review”), May 14, 2024 (US-64), p. 34.

⁸ Office of the U.S. Trade Representative, “Four-Year Review of Actions Taken in the Section 301 Investigation: China’s Acts, Policies, and Practice Related to Technology Transfer, Intellectual Property, and Innovation” (“Four-Year Review”), May 14, 2024 (US-64), p. 34.

10. And with respect to semiconductors, there is widespread reporting of China's industrial espionage and state-directed cyber intrusions and cybertheft of intellectual property concerning the semiconductor industries of the United States and other Members.

11. China does not allege that the United States has engaged in anything approaching this behavior – nor could it – and China's arguments amount to a desperate attempt to distract the Panel from its own actions that violate U.S. public morals.

12. In conclusion, the United States reaffirms the arguments made in its submissions to date and respectfully requests that the panel reject all of China's claims. In brief, the United States has established that (1) it has public morals against unfair competition, coercion, theft, and forced labor; that (2) the measures are necessary to protect those public morals, including because other actions had not sufficiently protected those public morals; and (3) that the measures at issue are consistent with the Article XX chapeau, including because the same conditions do not prevail in the United States and China.

13. With respect to Articles 3.1(b) and 3.2 of the SCM Agreement, China has failed to establish that the Clean Vehicle Tax Credit is a prohibited import substitution subsidy and inconsistent with these provisions; and in light of the self-judging nature of Article XXI(b), the only finding the panel may make with respect to the FEOC exclusion to the Clean Vehicle Tax Credit is to note the U.S. invocation of Article XXI(b).

14. Once again, we thank the Panel, and the Secretariat supporting you, for your work in this dispute and look forward to answering your written questions. Thank you.