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**CHINA – MEASURES RELATED TO THE EXPORTATION OF
RARE EARTHS, TUNGSTEN, AND MOLYBDENUM**

**COMMUNICATION FROM JAPAN AND CHINA CONCERNING
ARTICLE 21.3(C) OF THE DSU**

The following communication, dated 20 October 2014, from the delegation of Japan and the delegation of China to the Chairperson of the Dispute Settlement Body, is circulated at the request of these delegations.

At its meeting on 29 August 2014, the Dispute Settlement Body ("DSB") adopted its recommendations and rulings in the dispute *China — Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum* (DS433). At the meeting of the DSB held on 26 September 2014, China announced its intention to implement the DSB's recommendations and rulings in this dispute and stated that it would need a reasonable period of time in which to do so.

Article 21.3(c) of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU") provides that, in the absence of an agreement between the parties on a period of time, the reasonable period of time shall be determined "through binding arbitration within 90 days after the date of adoption of the recommendations and rulings."

In order to allow sufficient time for the parties to discuss a mutually agreed period, China and Japan (i) agree that, in the event an arbitration under Article 21.3(c) of the DSU is requested, it shall be completed no later than 60 days after the date of the appointment of an arbitrator, unless the arbitrator, following consultation with the parties, considers that additional time is required; and (ii) hereby confirm that any award of the arbitrator (including an award not made within 90 days after the date of adoption of the DSB recommendations and rulings) shall be deemed to be an award of the arbitrator for the purposes of Article 21.3(c) of the DSU in determining the reasonable period of time for China to implement the recommendations and rulings of the DSB.

We respectfully request that you circulate this notification to the Members of the DSB.
