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CHINA – DUTIES AND OTHER MEASURES CONCERNING THE EXPORTATION OF CERTAIN RAW MATERIALS

REQUEST FOR CONSULTATIONS BY THE EUROPEAN UNION

Addendum

The following communication, dated 19 August 2016, from the delegation of the European Union 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 duties on the export of ferro-nickel¹. This request supplements and does not replace the European Union's request for consultations with China dated 19 July 2016, on other export restrictions².

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)

¹ Ferro-nickel includes the items falling under the eight-digit Chinese Customs Commodity Codes identified in *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) (hereinafter referred to as the "2016 Tariff Adjustment Plan") as listed in Annex 12 Section A to this request.

² WT/DS509/1

- as well as any annexes or schedules thereto, amendments, supplements, extensions, replacement measures, renewal measures, related measures, or implementing measures.

China's measures 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").

China's measures also appear to nullify or impair the benefits accruing to the European Union directly or indirectly under the cited agreement.

The European Union reserves the right to address additional measures and claims regarding the above matters in the course of the consultations.

The European Union looks forward to receiving China's reply to this request for consultations in due course. The European Union has already engaged with China on mutually convenient dates for consultations in Geneva.

Annex 12

Ferro-nickel

Section A

(List of eight-digit Chinese Customs Commodity Codes, as identified in the 2016 Tariff Adjustment Plan)

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