

USTR NEWS

UNITED STATES TRADE REPRESENTATIVE

www.ustr.gov

Washington, D.C. 20508

202-395-3230

For Immediate Release:

March 13, 2012

Contact:

Nkenge Harmon

nharmon@ustr.eop.gov

United States Challenges China's Export Restraints on Rare Earths at the World Trade Organization

Washington, D.C. – U.S. Trade Representative Ron Kirk announced today that the United States has requested consultations with the People's Republic of China at the World Trade Organization (WTO) concerning China's unfair export restraints on rare earths, as well as tungsten and molybdenum. These materials are key inputs in a multitude of U.S. made-products and American manufacturing sectors, including hybrid car batteries, wind turbines, energy-efficient lighting, steel, advanced electronics, automobiles, petroleum, and chemicals.

Consultations are the first step in the WTO dispute settlement process, and parties are encouraged to agree to a solution at this stage. Under WTO rules, if the matter is not resolved through consultations within 60 days, the United States may request the establishment of a WTO dispute settlement panel. The European Union and Japan also requested WTO consultations with China on this matter today.

"America's workers and manufacturers are being hurt in both established and budding industrial sectors by these policies. China continues to make its export restraints more restrictive, resulting in massive distortions and harmful disruptions in supply chains for these materials throughout the global marketplace," said Ambassador Kirk. **"The launch of this case against China today, along with the President's creation of the Interagency Trade Enforcement Center, reflects the Obama Administration's commitment to make all of our trading partners play by the rules. We will continue fighting for a level playing field for American workers and manufacturers in order to grow our economy, and ensure open markets for products made in America."**

The United States recently won a WTO challenge against China's export restraints on nine other industrial inputs. China's export restraint measures on rare earths, tungsten, and molybdenum appear to be part of the same troubling industrial policy aimed at providing

substantial competitive advantages for Chinese manufacturers.

China imposes several different types of unfair export restraints on the materials at issue in today's consultations request, including export duties, export quotas, export pricing requirements as well as related export procedures and requirements. Because China is a top global producer for these key inputs, its harmful policies artificially increase prices for the inputs outside of China while lowering prices in China. This price dynamic creates significant advantages for China's producers when competing against U.S. producers – both in China's market and in other markets around the world. The improper export restraints also contribute to creating substantial pressure on U.S. and other non-Chinese downstream producers to move their operations, jobs, and technologies to China.

Today's action is the latest in a series of enforcement steps the United States has taken to hold China accountable under its WTO commitments. Those steps include several recent actions at the WTO, including cases challenging China's discriminatory electronic payment services policies, wind power equipment subsidies, and treatment of imported U.S. high-tech steel and chicken products. The United States has also taken action to counter injurious and rapidly increasing Chinese tire imports.

BACKGROUND

China unfairly imposes export restraints on rare earths, tungsten, and molybdenum, as well as many intermediate products processed from these raw materials. In all, China's export restraints on the materials at issue in this dispute cover more than 100 tariff codes.

China also imposes harmful export duties on rare earths, tungsten, and molybdenum. China committed as part of the terms of its WTO accession to eliminate export duties for all products other than those listed in a specific annex. The export duties the United States is challenging are imposed on products not listed in that annex. The WTO recently confirmed in the *China – Measures Related to the Exportation of Various Raw Materials* dispute that China cannot justify its imposition of such export duties pursuant to the exceptions provided in Article XX of the GATT 1994.

China imposes distorting export quotas on rare earths, tungsten, and molybdenum. China also imposes other export restrictions through its export procedures and requirements. Article XI:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994) generally prohibits restrictions on exports other than taxes, duties, and charges. In addition, China's WTO Accession Protocol contains broad commitments not to restrict the right to export goods.

###