

**Before the World Trade Organization**  
**Panel Proceedings**

**TÜRKİYE – MEASURES CONCERNING EVs AND OTHER TYPES OF  
VEHICLES FROM CHINA**  
(DS629)

**AUSTRALIA'S EXECUTIVE SUMMARY**

23 October 2025

**TABLE OF CASES**

<b>Short Title</b>	<b>Full Case Title and Citation</b>
<i>Brazil – Retreaded Tyres</i>	Appellate Body Report, <i>Brazil – Measures Affecting Imports of Retreaded Tyres</i> , <a href="#">WT/DS332/AB/R</a> , adopted 17 December 2007, DSR 2007:IV, p. 1527
<i>China – Publications and Audiovisual Products</i>	Appellate Body Report, <i>China – Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products</i> , <a href="#">WT/DS363/AB/R</a> , adopted 19 January 2010, DSR 2010:I, p. 3
<i>China – Raw Materials</i>	Appellate Body Reports, <i>China – Measures Related to the Exportation of Various Raw Materials</i> , <a href="#">WT/DS394/AB/R</a> / <a href="#">WT/DS395/AB/R</a> / <a href="#">WT/DS398/AB/R</a> , adopted 22 February 2012, DSR 2012:VII, p. 3295
<i>EC – Seal Products</i>	Appellate Body Reports, <i>European Communities – Measures Prohibiting the Importation and Marketing of Seal Products</i> , <a href="#">WT/DS400/AB/R</a> / <a href="#">WT/DS401/AB/R</a> , adopted 18 June 2014, DSR 2014:I, p. 7
<i>EC – Tariff Preferences</i>	Appellate Body Report, <i>European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries</i> , <a href="#">WT/DS246/AB/R</a> , adopted 20 April 2004, DSR 2004:III, p. 925
<i>EU – Palm Oil (Indonesia)</i>	Panel Report, <i>European Union – Certain Measures Concerning Palm Oil and Oil Palm Crop-based Biofuels</i> , <a href="#">WT/DS593/R</a> and Add.1, adopted 24 February 2025
<i>EU and Certain Member States – Palm Oil (Malaysia)</i>	Panel Report, <i>European Union and Certain Member States – Certain Measures Concerning Palm Oil and Oil Palm Crop-Based Biofuels</i> , <a href="#">WT/DS600/R</a> and Add.1, adopted 26 April 2024
<i>EU and Certain Member States – Palm Oil (Malaysia)</i>	Panel Report, <i>European Union and Certain Member States – Certain Measures Concerning Palm Oil and Oil Palm Crop-Based Biofuels</i> , <a href="#">WT/DS600/R</a> and Add.1, adopted 26 April 2024
<i>India – Tariffs on ICT Goods</i>	Panel Reports, <i>India – Tariff Treatment on Certain Goods in the Information and Communications Technology Sector</i> , <a href="#">WT/DS582/R</a> and Add.1 (EU) / <a href="#">WT/DS584/R</a> and Add.1 (Japan) / <a href="#">WT/DS588/R</a> and Add.1 (Chinese Taipei), circulated to WTO Members 17 April 2023
<i>Indonesia – Import Licensing Regimes</i>	Appellate Body Report, <i>Indonesia – Importation of Horticultural Products, Animals and Animal Products</i> , <a href="#">WT/DS477/AB/R</a> , <a href="#">WT/DS478/AB/R</a> , and Add.1, adopted 22 November 2017, DSR 2017:VII, p. 3037
<i>Korea – Various Measures on Beef</i>	Appellate Body Report, <i>Korea – Measures Affecting Imports of Fresh, Chilled and Frozen Beef</i> , <a href="#">WT/DS161/AB/R</a> , <a href="#">WT/DS169/AB/R</a> , adopted 10 January 2001, DSR 2001:I, p. 5

Short Title	Full Case Title and Citation
<i>US – Shrimp</i>	Appellate Body Report, <i>United States – Import Prohibition of Certain Shrimp and Shrimp Products</i> , <a href="#">WT/DS58/AB/R</a> , adopted 6 November 1998, DSR 1998:VII, p. 2755

#### LIST OF ACRONYMS, ABBREVIATIONS AND SHORT FORMS

Abbreviation	Full Form or Description
EU	European Union
EV	Electric Vehicle
FTA	Free Trade Area
GATT	General Agreement on Tariffs and Trade 1994
GHG	Greenhouse gas
IPLS	Import Permit Licensing Scheme
Member	Member of the World Trade Organization
UK	United Kingdom
WTO	World Trade Organization

## I. EXECUTIVE SUMMARY OF AUSTRALIA'S WRITTEN SUBMISSION

### A. ARTICLE II OF THE GATT AND LEGITIMATE EXPECTATIONS

1. A tariff concession in a Member's WTO Schedule applies to all products falling under the terms of the concession, as interpreted based on its ordinary meaning when read in context, and in light of the object and purpose of the agreement.<sup>1</sup> This includes "new products that come into existence as a result of technological innovation, and which did not exist at the time that the concession in the Schedule was agreed upon".<sup>2</sup> To interpret commitments based on the ordinary meaning at the time a Member was bound would substantially undermine the security and predictability of Members' tariff commitments, producing unfavourable results.<sup>3</sup>

### B. ARTICLES XX (B) AND (G) OF THE GATT

2. In Australia's view, measures adopted in order to attenuate global warming and climate change may fall within the scope of Article XX(b) of the GATT.<sup>4</sup> The term "exhaustible natural resources" in Article XX(g) must be read "in the light of contemporary concerns of nations about the protection and conservation of the environment".<sup>5</sup> Panels have noted that measures taken to avoid or reduce GHG emissions and climate change fall within the scope of the objective of "the conservation of exhaustible natural resources".<sup>6</sup>

### C. "SAME CONDITIONS PREVAIL"

3. Whether the same conditions prevail in different countries is an objective question.<sup>7</sup> The term "conditions" in the *chapeau* to Article XX can encompass a wide variety of circumstances.<sup>8</sup> In determining which "conditions" prevailing in different countries are relevant, the subparagraphs of Article XX, and the subparagraph under which a measure has been provisionally justified, provide pertinent context.<sup>9</sup> The type or cause of the violation found to exist may also inform the determination of which countries should be compared with

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<sup>1</sup> Panel Report, *India – Tariff Treatment*, para. 7.63.

<sup>2</sup> Panel Report, *India – Tariff Treatment*, para. 7.63.

<sup>3</sup> Appellate Body Report, *China – Publications and Audiovisual Products*, paras. 396-397.

<sup>4</sup> Panel Reports, *EU and Certain Member States – Palm Oil (Malaysia)*, paras 7.281, 7.1085 and *EU – Palm Oil (Indonesia)*, paras 7.290, 7.1093 referring to Appellate Body Report, *Brazil – Retreaded Tyres*, para. 151.

<sup>5</sup> Appellate Body Report, *US – Shrimp*, para. 129.

<sup>6</sup> Panel Reports, *EU – Palm Oil (Indonesia)*, para 7.286 and *EU and Certain Member States – Palm Oil (Malaysia)*, para. 7.277.

<sup>7</sup> Appellate Body Report, *Brazil Retreaded Tyres*, para. 31.

<sup>8</sup> Appellate Body Reports, *EC – Seal Products*, para. 5.299.

<sup>9</sup> Appellate Body Reports, *EC-Seal Products*, para. 5.300 and *Indonesia – Import Licensing Regimes*, para. 5.99.

respect to the conditions that prevail in them.<sup>10</sup> The measure being examined is higher tariffs on Chinese EVs, the alleged violation includes a claim China is not provided with MFN status vis-à-vis tariffs on EVs, the exceptions invoked both relate to climate change mitigation, and a shift from internal combustion vehicles to EVs could assist in climate change mitigation.

#### **D. ARTICLE XXIV**

4. The unique circumstances in *EC – Tariff Preferences*<sup>11</sup> dictated a "special approach"<sup>12</sup> to the Enabling Clause and cannot be assumed to automatically translate to Article XXIV.

### **II. EXECUTIVE SUMMARY OF AUSTRALIA'S ORAL STATEMENT**

#### **A. ARTICLES XX (B) AND (G) OF THE GATT**

5. The use of the word "necessary" in Article XX(b) does not mean that the measure must be "indispensable" to the achievement of the objective at issue.<sup>13</sup> The Panel will need to assess all the relevant factors.<sup>14</sup> There must be a "sufficient nexus" between the challenged measure and a legitimate policy goal under Article XX(g).<sup>15</sup> This excludes from Article XX(g) measures which are "merely inadvertently aimed at a conservation objective".<sup>16</sup> When driven, internal combustion vehicles release GHGs, hybrid vehicles generally release fewer GHGs, and EVs release no GHGs. The Panel will need to consider whether it has been established that additional duties on all three types of vehicles contribute sufficiently to the asserted environmental objectives given that: (1) each type contributes differently to the level of GHGs in the atmosphere when driven; and (2) one type of vehicle contributes no GHGs when driven.

#### **B. "SAME CONDITIONS PREVAIL"**

6. The *chapeau* to Article XX does not expressly limit the type of prevailing "conditions" which may be considered. However, context for determining the relevant "conditions" would include: (1) the type or cause of the underlying violation; and (2) the subparagraph(s) of Article

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<sup>10</sup> Appellate Body Reports, *EC-Seal Products*, para. 5.300 and *Indonesia – Import Licensing Regimes*, para. 5.99.

<sup>11</sup> See Türkiye's first written submission, para. 3.12, citing Appellate Body Report, *EC – Tariff Preferences*, paras. 110, 113.

<sup>12</sup> Appellate Body Report, *EC – Tariff Preferences*, paras. 106-107.

<sup>13</sup> Appellate Body report, *Brazil – Retreaded Tyres*, para 150 citing Appellate Body report, *Korea – Various Measures on Beef*, para. 161.

<sup>14</sup> Appellate Body report, *Brazil – Retreaded Tyres*, para 156.

<sup>15</sup> Appellate Body report, *US – Shrimp*, para 133.

<sup>16</sup> Appellate Body reports, *China – Raw Materials*, para 360.

XX under which the measure in question is provisionally justified.<sup>17</sup> As to whether China's high share of global EV and EV battery production and industry policy toward the EV industry are relevant prevailing "conditions", the Panel should consider the nature of the relationship between: (1) China's high share of global EV and EV battery production and its industry policy toward the EV industry; and (2) additional duties on Chinese vehicles to protect human, animal or plant life and health and/or to conserve exhaustible natural resources. The closer the relationship, the more likely these factors are relevant prevailing "conditions".

7. In assessing the relationship, the panel will need to consider whether excessive dependence on Chinese EVs could create supply chain vulnerabilities and if Türkiye "needs to develop its own EV industry ... [for] ...a sustainable green transition in its territory". The Panel will also need to consider whether the measures would delay Türkiye's "transition to a cleaner economy ... mitigating global climate change".<sup>18</sup> The Panel should consider whether differential treatment of China is not "arbitrary or unjustifiable" given any established differences in global market shares and industry policies between China and other WTO Members. In considering the additional duties on Chinese internal combustion vehicles, the Panel will also need to consider the relevance – if any – of China's high share of global EV and EV battery production and its industry policy toward the EV industry to those additional duties.

### **C. ARTICLE XXIV OF THE GATT**

8. GATT Article XXIV(5) states the provisions of the GATT "shall not prevent ... the formation of a customs union or ... a free trade area". As to whether the formation of the Türkiye-EU customs union and Türkiye's FTAs would have been prevented if Türkiye were not allowed to introduce the IPLS, the Panel may need to consider that Article XXIV(8) provides that measures permitted under Article XX do not need to be eliminated to properly form a customs union or FTA. Türkiye has argued in the alternative that the IPLS complies with Article XX(d).<sup>19</sup> The FTAs and customs union which Türkiye relies upon may contain exceptions permitting certain measures necessary to secure compliance with Türkiye's laws or regulations (e.g. Article 11.1 of Türkiye's FTA with the UK).<sup>20</sup>

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<sup>17</sup> Appellate Body reports, *EC – Seal Products*, paras 5.299-5.301.

<sup>18</sup> China first written submission, para 8.

<sup>19</sup> Türkiye's first written submission, para. 3.197.

<sup>20</sup> See Exhibit TUR-62.