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CHINA – MEASURES AFFECTING IMPORTS OF AUTOMOBILE PARTS

Request for Consultations by the United States

The following communication, dated 30 March 2006, from the delegation of the United States to the delegation of China and to the Chairman 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 pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, Article XXII of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), Article 8 of the *Agreement on Trade-Related Investment Measures* ("TRIMs Agreement") (to the extent that Article 8 incorporates Article XXII of the GATT 1994), and Articles 4 and 30 of the *Agreement on Subsidies and Countervailing Measures* ("SCM Agreement") (to the extent that Article 30 incorporates Article XXII of the GATT 1994) with respect to China's treatment of motor vehicle parts, components, and accessories ("auto parts") imported from the United States.

China's regulations governing the importation of auto parts appear to penalize manufacturers for using imported auto parts in the manufacture of vehicles for sale in China. Although China bound its tariffs for auto parts at rates significantly lower than its tariff bindings for complete vehicles, we understand that China assesses a charge on imported auto parts equal to the tariff on complete vehicles, if the imported parts are incorporated in a vehicle that contains imported parts in excess of specified thresholds. To the extent that the charge is applied when a vehicle is manufactured within China, it would appear to constitute a tax on imported auto parts not imposed on like domestic auto parts. The tax also appears to be applied in a manner so as to afford protection to domestic products.

To the extent that the charge is imposed upon the importation of the auto parts, it appears to constitute a charge in excess of those set forth in China's Schedule of Concessions and Commitments. Further, to the extent China may be viewed as imposing a lesser tariff on imported auto parts if the final assembled vehicle contains specified amounts of local content, it would be forgoing revenue otherwise due, and China would appear to be providing a subsidy contingent upon the use of domestic rather than imported goods. A statement of available evidence with regard to the existence and nature of the subsidy is attached.

Further, China's regulations specifically identify completely knocked down (CKD) and semi-knocked down (SKD) kits and appear to assess them the tariff for complete vehicles.

The measures through which China has provided such treatment include:

- Order No. 8 of the National Development and Reform Commission (21 May 2004), *Policy on Development of Automotive Industry*;
- Decree 125 (1 April 2005), Measures for the Administration of Importation of Automotive Parts and Components for Complete Vehicles;
- Customs General Administration Public Announcement No. 4 (1 April 2005), Rules for Determining Whether Imported Automotive Parts and Components Constitute CBU Vehicles;

as well as any amendments, related measures, or implementing measures.

These measures appear to be inconsistent with the following provisions:

- Article 2 of the TRIMs Agreement;
- Articles II (including paragraph 1) and III (including paragraphs 2, 4, and 5) of the GATT 1994;
- Article 3 (including paragraphs 1 and 2) of the SCM Agreement; and
- The Protocol on the Accession of the People's Republic of China (WT/L/432) (including Parts I.1.2 and I.7.3, and Paragraphs 93 and 203 of the Working Party Report (WT/MIN(01)/3)), which is an integral part of the *Marrakesh Agreement Establishing the World Trade Organization*.

China's measures also appear to nullify or impair the benefits accruing to the United States directly or indirectly under the cited agreements.

We look forward to receiving your reply to the present request and to fixing a mutually convenient date for consultations.

Statement of Available Evidence

- Order No. 8 of the National Development and Reform Commission (21 May 2004), *Policy on Development of Automotive Industry*;
 - Decree 125 (1 April 2005), Measures for the Administration of Importation of Automotive Parts and Components for Complete Vehicles;
 - Customs General Administration Public Announcement No. 4 (1 April 2005), Rules for Determining Whether Imported Automotive Parts and Components Constitute CBU Vehicles.
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