

CHINA – MEASURES AFFECTING IMPORTS OF AUTOMOBILE PARTS

Request for the Establishment of a Panel by the United States

The following communication, dated 15 September 2006, from the delegation of the United States to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 30 March 2006, the United States requested 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* ("DSU"), 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" or "parts") imported from the United States. The United States held consultations with China on 11-12 May 2006. Unfortunately, those consultations did not resolve the dispute.

China assesses motor vehicle manufacturers a charge on all imported auto parts incorporated into a vehicle for sale in China unless the vehicle meets certain thresholds, *i.e.*, unless it contains a minimum quantity or value of domestic parts and is not assembled from an imported kit. The charge is equal to the tariff on complete motor vehicles. (In its Schedule of Concessions and Commitments annexed to the GATT 1994, China bound its tariffs for auto parts at rates significantly lower than its tariff bindings for complete vehicles.) No such charge is imposed on domestic auto parts. China also imposes additional administrative obligations such as record keeping and security requirements on manufacturers which produce vehicles that do not meet the specified thresholds.

The United States understands that the relevant Chinese measures 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 (April 1, 2005), Rules for Determining Whether Imported Automotive Parts and Components Constitute Complete Vehicles; and

- any amendments or extensions to the previous three measures, and any related or implementing measures.

The United States considers that these measures are inconsistent with China's obligations under provisions of the GATT 1994; the TRIMs Agreement; the SCM Agreement; and the *Protocol on the Accession of the People's Republic of China* (WT/L/432) ("Accession Protocol") (including commitments referred to in paragraph 342 of the *Working Party Report on the Accession of China* (WT/MIN(01)/3) ("Working Party Report")). In particular, China has acted inconsistently with:

- (1) Article III:2 of the GATT 1994, by imposing a charge on imported auto parts but not on domestic auto parts, and otherwise applying internal charges so as to afford protection to domestic production;
- (2) Article III:4 of the GATT 1994, by treating imported auto parts less favourably than like domestic auto parts by imposing additional administrative burdens and additional charges upon manufacturers that use imported parts in excess of specified thresholds, thereby affecting the internal sale, offering for sale, purchase, transportation, distribution, or use of imported auto parts;
- (3) Article 2.1 and paragraphs 1(a) and 2(a) of Annex 1 of the TRIMs Agreement, by requiring motor vehicle manufacturers in China to purchase or use domestic auto parts in order to obtain advantages such as the avoidance of administrative burdens and the payment of additional charges and by imposing restrictions which generally restrict the importation by a manufacturer of auto parts used in or related to its local production;
- (4) Article III:5 of the GATT 1994, by requiring that a specified amount or proportion of the auto parts assembled into a complete motor vehicle be supplied from domestic sources, and otherwise applying internal quantitative regulations so as to afford protection to domestic production;
- (5) Part I.7.2 of the Accession Protocol, by introducing measures that cannot be justified under the provisions of the *Marrakesh Agreement Establishing the World Trade Organization* ("WTO Agreement"), particularly with respect to Articles III and XI of the GATT 1994;
- (6) Part I.7.3 of the Accession Protocol and paragraph 203 of the Working Party Report, by failing to comply with the TRIMs Agreement and by maintaining local content requirements made effective through the measures;
- (7) Articles 3.1(b) and 3.2 of the SCM Agreement, by exempting domestic auto parts from charges imposed by the measures, as well as exempting imported parts from the charges if the motor vehicle manufacturer uses domestic over imported parts in order to meet the specified thresholds;

to the extent that the measures impose a charge on or in connection with the importation of auto parts,

- (8) Article II:1(a) and (b) of the GATT 1994, by according imported auto parts less favorable treatment than that provided for in its Schedule of Concessions and Commitments annexed to the GATT 1994 and imposing charges in excess of those set forth and provided therein;
- (9) paragraph 93 of the Working Party Report, by specifically identifying completely knocked down (CKD) and semi-knocked down (SKD) kits for motor vehicles and assessing them the tariff for complete vehicles; and

- (10) Article XI:1 of the GATT 1994, by constituting prohibitions or restrictions on the importation of auto parts other than in the form of duties, taxes, or other charges.

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

Accordingly, the United States respectfully requests, pursuant to Article 6 of the DSU and Article 4 of the SCM Agreement, that the Dispute Settlement Body establish a panel to examine this matter, with the standard terms of reference as set out in Article 7.1 of the DSU.
