

**CHINA – MEASURES AFFECTING IMPORTS OF AUTOMOBILE PARTS**

Request for the Establishment of a Panel by Canada

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

On 13 April 2006, the Government of Canada ("Canada") requested consultations with the Government of China ("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 7 of the *Agreement on Rules of Origin*, Article 8 of the *Agreement on Trade-Related Investment Measures* ("TRIMs Agreement"), and Articles 4 and 30 of the *Agreement on Subsidies and Countervailing Measures* ("SCM Agreement"), with respect to China's treatment of automobile parts from Canada.

Consultations were held on 11 and 12 May 2006 with a view to reaching a mutually satisfactory solution. Unfortunately, the consultations failed to resolve the dispute.

As a result, Canada respectfully requests that a panel be established to examine this matter, with standard terms of reference as set out in Article 7.1 of the DSU, and pursuant to Articles 4.7 and 6 of the DSU, Article XXIII of the GATT 1994, Article 8 of the TRIMs Agreement, and Articles 4 and 30 of the SCM Agreement.

China has adopted measures that impose different charges on automobile parts incorporated into vehicles manufactured in China. The measures result in charges to a domestic manufacturer using imported parts that are equal to the tariff on a complete motor vehicle, where the complete motor vehicle does not contain minimum thresholds of domestic parts. No such charge is imposed on domestic parts. As part of the measures, China also imposes additional administrative requirements on importers and manufacturers that may not meet the required threshold for domestic content.

The measures covered in this panel request are the following:

- *Policy on Development of Automotive Industry* (Order No. 8 of the National Development and Reform Commission, 21 May 2004);
- The People's Republic of China's Measures for the Administration of Importation of Automotive Parts and Components for Complete Vehicles (Decree No. 125), which entered into force on 1 April 2005;

- The People's Republic of China's *Rules for Determining Whether Imported Automotive Parts and Components Constitute Complete Vehicles* (General Administration of Customs Public Announcement No.4), which entered into force on 1 April 2005; and
- Any amendments or extensions to the above, or implementing measures on which China may rely in imposing charges or requirements on imported automobile parts that differ from treatment of domestic automobile parts.

These measures are inconsistent with China's obligations under GATT 1994; the TRIMs Agreement; the SCM Agreement; the *Marrakesh Agreement Establishing the World Trade Organization* ("WTO Agreement"); and the Protocol of Accession of the People's Republic of China (WT/L/342) ("Protocol"). In particular, China has acted inconsistently with the following provisions:

1. Article III:2 of the GATT 1994 because the measures result in charges on imported parts related to their use in manufacturing in China, while such charges are not imposed on domestically-produced parts. China also imposes internal taxes or other charges to imported products in a manner contrary to Article III:1.
2. Article III:4 of the GATT 1994 because the measures result in less-favourable treatment for imported parts than for domestic parts. The less-favourable treatment includes the effect of additional charges on, more burdensome regulation of, and specified thresholds for the use of imported parts.
3. Article III:5 (and also Article III:1) of the GATT 1994 because the measures constitute an internal quantitative regulation which requires minimum proportions of domestic content.
4. Article 2.1 of the TRIMs Agreement, in conjunction with paragraph 1(a) of the Agreement's Illustrative List, because the measures constitute measures requiring the purchase or use by domestic enterprises of products of domestic origin.
5. Part I, paragraph 7.2 of the Protocol, through measures inconsistent with the provisions of the GATT 1994, in particular Article III.
6. Part I, paragraphs 1.2 and 7.3 of the Protocol, and paragraphs 203 and 342 of the Working Party Report on the Accession of China (WT/MIN(01)/3) ("Report"), through measures that establish and maintain local content requirements.
7. Article 3.1(b) and 3.2 of the SCM Agreement, by excluding domestic automobile parts, and those imported parts used below specified thresholds, from charges imposed under the measures.

In respect of measures imposed on (or in connection with) the importation of automobile parts, China has acted inconsistently with the following provisions:

8. Article II:1(a) and (b) of the GATT 1994, because the charges imposed on imported parts, if they are properly characterized as tariffs, are higher than those set out in China's Schedule of Concessions and Commitments, and therefore contrary to China's commitments on joining the WTO. In addition, China imposes supplementary conditions on the importation of parts that are less favourable than those contained in China's negotiated tariff bindings.

9. Articles X:1 and X:3(a) of the GATT 1994, due to the manner in which the measures have been published and applied to importers and manufacturers.

Further, Canada considers that China's measures nullify or impair benefits accruing to Canada directly or indirectly under the cited agreements in the manner described in Article XXIII:1(b) of GATT 1994. In particular, China has nullified or impaired benefits related to paragraphs 93 and 342 of the Report, in conjunction with part I, paragraph 1.2 of the Protocol, through applying tariffs exceeding 10% on imports of completely knocked-down and semi knocked-down kits for motor vehicles.

Canada asks that this request be placed on the agenda for the meeting of the Dispute Settlement Body scheduled for 28 September 2006.

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