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CHINA – MEASURES AFFECTING IMPORTS OF AUTOMOBILE PARTS

Request for Consultations by Canada

The following communication, dated 13 April 2006, from the delegation of Canada 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 asked 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* (DSU), Article XXII of the *General Agreement on Tariffs and Trade 1994* (GATT 1994), Article 7 of the *Agreement on Rules of Origin* (ARO), 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.

The measures at issue include, but are not limited to, 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.

For each of the measures referred to above, this request also covers any amendments, replacements, extensions, implementing measures or other related measures.

Under the above measures, China imposes different charges on vehicles manufactured in China depending on the domestic content of the automobile parts used in manufacture. The measures result in additional charges on imported parts that a domestic manufacturer will incur, where the volume or value of imported parts in a final assembled vehicle exceeds specified thresholds. These additional charges, which are assessed after the vehicle is manufactured, provide domestic manufacturers an advantage if they use domestic parts. This would appear to constitute a tax on

imported parts not otherwise imposed on the like domestic product, and affords protection to the domestic industry. The measures may also have an impact on foreign investment as they confer an advantage to enterprises, conditioned on the use in vehicle production of domestic instead of imported parts.

In addition, the charges that may be assessed on automobile parts once a vehicle is complete appear to constitute a charge in excess of those set forth in China's Schedule of Concessions and Commitments. Further, China's regulations specifically identify completely-knocked down (CKD) and semi-knocked down (SKD) kits in order to assess them the tariff for completed vehicles, which appears to be inconsistent with China's commitments made in Working Party Report WT/MIN(01)/3. The Chinese measures also serve to protect the domestic industry by applying more stringent rules to imported than to domestic automobile parts.

The measures, in particular the Policy Statement, appear to provide subsidies contingent in law or in fact, whether solely or as one of several other conditions, upon export performance and upon the use of domestic over imported goods. A statement of available evidence with regard to the existence and nature of the subsidy is attached.

Canada considers that the measures at issue are inconsistent with 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*) and China's obligations under the following provisions:

- Article II (including paragraph 1) and Article III (including paragraphs 2, 4 and 5) of the GATT 1994;
- Article 2 of the TRIMs Agreement, in conjunction with paragraphs 1(a) and 2(a) of the Agreement's Illustrative List;
- Article 2 of the ARO, specifically paragraphs (b), (c) and (d); and
- Article 3 of the SCM Agreement.

In addition, Canada considers that China's measures may nullify or impair benefits accruing to Canada under the cited agreements in the manner described in Article XXIII:1(b) of GATT.

Canada reserves the right to raise additional claims and legal matters regarding the measures at issue during the course of consultations.

I look forward to receiving your reply to this request and to selecting a mutually acceptable date on which consultations may take place.

Statement of Available Evidence

- *Policy on Development of Automotive Industry* (Order No. 8 of the National Development and Reform Commission, 21 May 2004);
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