

CHINA – MEASURES AFFECTING IMPORTS OF AUTOMOBILE PARTS

(WT/DS340)

**COMMENTS BY THE UNITED STATES ON CHINA'S RESPONSE
TO ADDITIONAL QUESTION 304 BY THE PANEL**

September 10, 2007

Q304. (All parties) Please clarify the order in which the following events take place under China's measures with respect to imported auto parts characterized as complete vehicles:

- **the assembly of imported auto parts into complete vehicles;**
- **automobile manufacturer's *declaration for duty payment* for imported auto parts;**
- **automobile manufacturer's application for verification by the Verification Center and the Center's issuance of verification report[s];**
- **the customs authorities' classification of imported auto parts; and**
- **the customs authorities' collection of duties for imported auto parts.**

Please support your answer with relevant provisions of the measures as well as, if possible, any documentary evidence showing a specific sequence of these procedures. Please also confirm that imported auto parts that should not be characterized as complete vehicles are not subject to the above procedures applicable to imported auto parts characterized as complete vehicles.

1. As the United States has explained in its prior oral and written submissions, under China's measures the level of the charge assessed on any particular imported part cannot be determined until after the part is actually used in the production of a complete vehicle. The reason for this is twofold: (i) because no manufacturer can accurately predict whether any particular imported part will actually be used in the production of a specific vehicle model, as opposed to the other possible uses or dispositions of that part (such as use in production of a different vehicle model, or use as a replacement part, or being discarded as defective, or being destroyed in manufacturing); and (ii) because the determination of whether any specific vehicle model meets the local-content thresholds is based on a lengthy post-manufacturing verification process, and that determination must be revisited whenever the composition of the parts used in the model is modified. It is for these very reasons that, under China's measures, the charges on imported parts are not assessed until after manufacturing of vehicles within China.

2. China's response to Question 304 ignores the first set of issues set out above, and tries to underplay the second. In particular, China's response tries to make it sound as if the uncertainties regarding the level of charges to be applied to any particular imported part are a minor issue affecting small numbers of imported parts, when in fact these uncertainties are ongoing and an inherent part of a system which assesses a charge based on the level of local content contained in a product assembled within China after importation.

3. China’s response suggests that there is an initial decision on the “first batch” of assembled vehicles which establishes certainty on all future imports. However, since the issuance of the verification report on the first batch of vehicles takes weeks or months, the vehicle manufacturer will likely be importing parts and assembling them during the period prior to the issuance of the verification report. Thus, in this entire period prior to the issuance of the verification report, the level of charges to be imposed on imported parts used in the vehicle model is unsettled. Moreover, a “vehicle model” is not a static concept. Whenever the composition of the parts in a model changes, additional verifications will be required, which again leaves uncertain the level of charges to be imposed on imported parts used in the production of the model.

4. China’s response states that “the results of the self-evaluation and verification process determine the subsequent declaration and classification of auto parts that the manufacturer imports for use in the regular commercial production of the vehicle model.” This statement undermines China’s assertion that its charges are customs duties assessed upon importation. Since parts used in production may be imported prior to the issuance of China’s verification report, and since the determination of the level of the charge is based on an examination of the final assembled vehicle and the amount of imported content in that vehicle, China’s own statements confirm that the level of the charges assessed on a particular part is not based on the characteristics of the part itself (or on any element of the importation process), but rather on the amount of imported content in the vehicle and on processes that occur within China after importation.

5. Although the measures require a *manufacturer* (when the part is imported by a manufacturer rather than a parts supplier) to declare that an imported part is part of a registered vehicle model at the time the part enters China, that declaration is not dispositive. Rather, the government of China, pursuant to Article 28 of Decree 125, makes the dispositive determination, and does not do so until after the part has been assembled into a complete vehicle.

6. Finally, China states that “there is no additional verification process that occurs after each entry of auto parts for that vehicle model, or after the assembly of each motor vehicle of that vehicle model type.” While *verification* may not occur after the assembly of each vehicle, the “*classification*” of each imported part and the *assessment* of the charges due on each imported part do occur after the assembly of each motor vehicle. Verification simply examines the amount of imported content in a particular vehicle model; that is, the verification process is tied to models, not to the importation of any particular part. Under China’s measure, the only way to determine definitively the “classification” of a particular imported part, and thus the only way to assess the level of the charge on that imported part, is to determine after importation and assembly whether that part was used in a vehicle that is deemed a “whole vehicle” under China’s local-content criteria.