

CHINA – MEASURES AFFECTING IMPORTS OF AUTOMOBILE PARTS

(WT/DS340)

**RESPONSE BY THE UNITED STATES TO
ADDITIONAL QUESTION 304 BY THE PANEL**

August 31, 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 discussed below, the order in which the listed events will occur will vary based on different factual situations. Also, in addition to the listed events involving the application of China’s measures, the U.S. response below includes what is often the initial event in the sequence: namely, the importation of the parts (that is, the time when the parts are physically brought into China).

2. Before addressing various scenarios, some background is helpful. The process of applying China’s measures usually begins with the manufacturer performing the self-evaluation required by Article 7 of Decree 125.¹ This process is mandatory, since it is a necessary precondition for obtaining an import license. Article 7 provides that if the manufacturer determines that the model does not trigger any of the established thresholds then it must request a review by the Verification Center. If the Verification Center concludes that imported parts in the model are not “characterized as complete vehicles,” then no registration is required at that time. The remaining requirements of the measures are then not applied to that model until such time as changes are made in the composition of the vehicle, which in turn would result in a need to re-examine the applicability of the thresholds.

¹ See also Article 6 of Order No. 4.

3. If the self-evaluation determines that the imported parts in the basic model exceed the thresholds established in the measures, then Article 7 requires the manufacturer to register the vehicle model. Pursuant to Article 19, the manufacturer must submit an application within 10 days after the first “batch” of vehicles of the registered vehicle model is assembled to have the model “verified.” The Verification Center will then issue a verification report. As indicated in China’s response to Panel question No. 171, and as commented upon by the European Communities, the length of time it takes to complete the verification report varies and can be significant.

4. Pursuant to Article 28, after the imported parts have been assembled into complete vehicles, the automobile manufacturer shall make a declaration for duty payments to customs. The customs authorities will then make “classification” decisions and collect charges on the imported parts. Further, Article 31 provides that “customs shall collect the duty and the import VAT for all imported automobile parts used in assembling a certain vehicle model in the last month by a manufacturer, applying the tariff rates applicable to complete vehicles.”

5. With this background in mind, the order of the various events listed above, under various scenarios, is as follows:

6. For the first batch of assembled vehicles, the order would be: importation of auto parts, assembly of imported parts, application for verification, issuance of the verification report, declaration for duty payment, “classification” by customs authorities, and collection of charges.

7. For parts imported after the initial batch (or batches), but before the verification report is issued (a process that China concedes can take a substantial period of time), the order would be: application for verification, importation of auto parts, assembly of imported parts, issuance of the verification report, declaration for duty payment, “classification” by customs authorities, and collection of charges.

8. If a model has been in production for some time without any modification to its production plan, and after initial inventories of auto parts have been exhausted, the order for parts imported at that point will likely be: application for verification, issuance of verification report, importation of auto parts, assembly of imported parts, declaration for duty payment, “classification” by customs authorities, and collection of charges.

9. However, if any changes in the parts used in production occur, then importation of the parts again becomes the first step in the list of events. For example, Article 20 provides that if optional parts are installed on a vehicle, the manufacturer shall report the options to the Verification Center and make declarations at the time of the actual installation of the optional parts. The Verification Center would then review and issue a verification report. Similarly, if the production plan is adjusted in a way that would affect the local content requirements of the measures, the manufacturer may reapply for a re-verification. In these circumstances, the order would be similar to that of the “first batch” of vehicles (paragraph 6 above).

10. Finally if an imported part – even if originally intended for use in producing a complete

vehicle – is not in fact used in such production within one year,² then the order of events would be: importation of auto parts, assembly of other parts (but not this particular imported part) into complete vehicles, declaration for duty payment, “classification” by customs authorities, and collection of charges.

11. In sum, although the importation of parts, application for verification, assembly operations, and issuance of the verification report may occur in different orders depending on the circumstances, the last three activities will consistently be the declaration for duty payment, the “classification” determination, and then the collection of charges pursuant to Article 28.³ Furthermore, in every case it is impossible to predict whether an imported auto part will actually be used in the production of any particular model until production actually occurs, and in many cases, the importation of the parts will occur before even the issuance of a verification report for the model in which the part is intended to be used.

² This could occur for a variety of reasons, such as where parts are defective, destroyed in manufacturing, or are used as replacement parts, and also where initial production forecasts are not accurate and accordingly the manufacturer does not produce as many vehicles as originally planned.

³ Article 19 (2) of Decree 125 also contains special provisions covering models already in production at the time Decree 125 entered into effect. *See also* Article 10 of Order No.4.