

US – TYRES (CHINA)¹

(DS399)

PARTIES		AGREEMENT	TIMELINE OF THE DISPUTE	
Complainant	China	China's Accession Protocol	Establishment of Panel	19 January 2010
			Circulation of Panel Report	13 December 2010
Respondent	United States		Circulation of AB Report	5 September 2011
			Adoption	5 October 2011

1. MEASURE AND PRODUCT AT ISSUE

- **Measure at issue:** US transitional product-specific safeguard measure applied under para. 16 of China's Accession Protocol pursuant to Section 421 of the US Trade Act of 1974.
- **Product at issue:** Certain passenger vehicle and light truck tyres from China.

2. SUMMARY OF KEY PANEL/AB FINDINGS²

- **China's Accession Protocol, para. 16.4 (imports "increasing rapidly"):** The Appellate Body upheld the Panel's finding that the United States International Trade Commission (USITC) properly established that imports of subject tyres from China met the "increasingly rapidly" threshold provided in para. 16.4. The Appellate Body reasoned that such increases in imports must be occurring over a short and recent period of time, and must be of a sufficient magnitude in relative or absolute terms so as to be a significant cause of material injury to the domestic industry.
- **China's Accession Protocol, para. 16.4 (causation):** The Appellate Body upheld the Panel's finding that the USITC properly demonstrated that subject imports were a "significant cause" of material injury. The Appellate Body found that the causal link expressed by the term "a significant cause" in para. 16.4 requires that rapidly increasing imports make an "important" or "notable" contribution in bringing about material injury to the domestic industry. An investigating authority can find imports to be a significant cause of material injury only if it ensures that the effects of other known causes are not improperly attributed to subject imports.

The Appellate Body further upheld the Panel's finding that the USITC's reliance on an overall correlation between an upward movement in subject imports and a downward movement in injury factors reasonably supported the USITC's finding that rapidly increasing subject imports were a significant cause of material injury to the domestic injury within the meaning of para. 16.4.

The Appellate Body also upheld the Panel's finding that China failed to establish that the USITC improperly attributed injury caused by other factors to subject imports from China. The Appellate Body found that the collective injurious effects of other causes (e.g. US industry's business strategy, the reasons for US plant closures, changes in demand, and the effects of imports from third countries) did not suggest that subject imports were not "a significant cause" of material injury to the US domestic industry.

- **China's Accession Protocol, paras. 16.3 and 16.6 (remedy and duration):** The Panel found that China failed to establish that (i) the measure exceeded the extent necessary to prevent or remedy the market disruption caused by rapidly increasing subject imports contrary to para. 16.3; and (ii) the measure exceeded the period of time necessary to prevent or remedy the market disruption under para. 16.6.
- **DSU Art. 19.1 (Panel and Appellate Body's recommendations – suggestion on implementation):** The Appellate Body did not find that the United States acted inconsistently with its WTO obligations in imposing a product-specific safeguard measure on subject tyres from China. Hence, the Appellate Body made no recommendation under Art. 19.1.

¹ *United States – Measures Affecting Imports of Certain Passenger Vehicle and Light Truck Tyres from China*

² Other issues addressed: GATT Arts. I:1 and II:1.