

IX. Findings and Conclusions in the Appellate Body Report WT/DS339/AB/R (European Communities)

253. In the appeal of the Panel Report, *China – Measures Affecting Imports of Automobile Parts (Complaint by the European Communities, WT/DS339/R)* (the "EC Panel Report"), and with respect to Policy Order 8, Decree 125 and Announcement 4 (the "measures at issue"), for the reasons set forth in this Report, the Appellate Body:

- (a) upholds the Panel's finding, in paragraph 7.212 of the EC Panel Report, that the charge imposed under the measures at issue is an internal charge within the meaning of Article III:2 of the GATT 1994, and not an ordinary customs duty within the meaning of Article II:1(b);
- (b) upholds the Panel's finding, in paragraph 7.223 and Section VIII:A(a)(i) of the EC Panel Report, that, with respect to imported auto parts in general, the measures at issue are inconsistent with Article III:2, first sentence, of the GATT 1994 in that they subject imported auto parts to an internal charge that is not applied to like domestic auto parts;
- (c) upholds the Panel's finding, in paragraph 7.272 and Section VIII:A(a)(ii) of the EC Panel Report, that, with respect to imported auto parts in general, the measures at issue are inconsistent with Article III:4 of the GATT 1994 in that they accord imported auto parts less favourable treatment than like domestic auto parts; and
- (d) finds it unnecessary to rule on the Panel's "alternative" finding in Section VIII:A(b)(i) of the EC Panel Report, that, with respect to imported auto parts in general, the measures at issue are inconsistent with Article II:1(a) and (b) of the GATT 1994.

254. The Appellate Body recommends that the DSB request China to bring its measures, found in this Report, and in the EC Panel Report as upheld by this Report, to be inconsistent with the GATT 1994, into conformity with its obligations under that Agreement.

Signed in the original in Geneva this 25th day of November 2008 by:

Lilia Bautista
Presiding Member

Jennifer Hillman
Member

Giorgio Sacerdoti
Member

IX. Findings and Conclusions in the Appellate Body Report WT/DS340/AB/R (United States)

253. In the appeal of the Panel Report, *China – Measures Affecting Imports of Automobile Parts (Complaint by the United States, WT/DS340/R)* (the "US Panel Report"), and with respect to Policy Order 8, Decree 125 and Announcement 4 (the "measures at issue"), for the reasons set forth in this Report, the Appellate Body:

- (a) upholds the Panel's finding, in paragraph 7.212 of the US Panel Report, that the charge imposed under the measures at issue is an internal charge within the meaning of Article III:2 of the GATT 1994, and not an ordinary customs duty within the meaning of Article II:1(b);
- (b) upholds the Panel's finding, in paragraph 7.223 and Section VIII:B(a)(i) of the US Panel Report, that, with respect to imported auto parts in general, the measures at issue are inconsistent with Article III:2, first sentence, of the GATT 1994 in that they subject imported auto parts to an internal charge that is not applied to like domestic auto parts;
- (c) upholds the Panel's finding, in paragraph 7.272 and Section VIII:B(a)(ii) of the US Panel Report, that, with respect to imported auto parts in general, the measures at issue are inconsistent with Article III:4 of the GATT 1994 in that they accord imported auto parts less favourable treatment than like domestic auto parts;
- (d) finds it unnecessary to rule on the Panel's "alternative" finding in Section VIII:B(b)(i) of the US Panel Report, that, with respect to imported auto parts in general, the measures at issue are inconsistent with Article II:1(a) and (b) of the GATT 1994; and
- (e) finds that the Panel erred, in paragraphs 7.77 and 7.78 of the US Panel Report, in construing the measures at issue as imposing a charge on completely knocked down (CKD) and semi-knocked down (SKD) kits imported under Article 2(2) of Decree 125, and consequently reverses the Panel's finding in paragraph 7.758 and Section VIII:B(c)(ii) of the US Panel Report that, with respect to their treatment of imports of CKD and SKD kits, the measures at issue are inconsistent with the commitment in paragraph 93 of China's Accession Working Party Report.

254. The Appellate Body recommends that the DSB request China to bring its measures, found in this Report, and in the US Panel Report as modified by this Report, to be inconsistent with the GATT 1994, into conformity with its obligations under that Agreement.

Signed in the original in Geneva this 25th day of November 2008 by:

Lilia Bautista
Presiding Member

Jennifer Hillman
Member

Giorgio Sacerdoti
Member

IX. Findings and Conclusions in the Appellate Body Report WT/DS342/AB/R (Canada)

253. In the appeal of the Panel Report, *China – Measures Affecting Imports of Automobile Parts (Complaint by Canada, WT/DS342/R)* (the "Canada Panel Report"), and with respect to Policy Order 8, Decree 125 and Announcement 4 (the "measures at issue"), for the reasons set forth in this Report, the Appellate Body:

- (a) upholds the Panel's finding, in paragraph 7.212 of the Canada Panel Report, that the charge imposed under the measures at issue is an internal charge within the meaning of Article III:2 of the GATT 1994, and not an ordinary customs duty within the meaning of Article II:1(b);
- (b) upholds the Panel's finding, in paragraph 7.223 and Section VIII:C(a)(i) of the Canada Panel Report, that, with respect to imported auto parts in general, the measures at issue are inconsistent with Article III:2, first sentence, of the GATT 1994 in that they subject imported auto parts to an internal charge that is not applied to like domestic auto parts;
- (c) upholds the Panel's finding, in paragraph 7.272 and Section VIII:C(a)(ii) of the Canada Panel Report, that, with respect to imported auto parts in general, the measures at issue are inconsistent with Article III:4 of the GATT 1994 in that they accord imported auto parts less favourable treatment than like domestic auto parts;
- (d) finds it unnecessary to rule on the Panel's "alternative" finding in Section VIII:C(b)(i) of the Canada Panel Report, that, with respect to imported auto parts in general, the measures at issue are inconsistent with Article II:1(a) and (b) of the GATT 1994; and
- (e) finds that the Panel erred, in paragraphs 7.77 and 7.78 of the Canada Panel Report, in construing the measures at issue as imposing a charge on completely knocked down (CKD) and semi-knocked down (SKD) kits imported under Article 2(2) of Decree 125 and, consequently reverses the Panel's finding in paragraph 7.758 and Section VIII:C(c)(i) of the Canada Panel Report that, with respect to their treatment of CKD and SKD kits, the measures at issue are inconsistent with the commitment in paragraph 93 of China's Accession Working Party Report.

254. The Appellate Body recommends that the DSB request China to bring its measures, found in this Report, and in the Canada Panel Report as modified by this Report, to be inconsistent with the GATT 1994, into conformity with its obligations under that Agreement.

Signed in the original in Geneva this 25th day of November 2008 by:

Lilia Bautista
Presiding Member

Jennifer Hillman
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Giorgio Sacerdoti
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