

## Customs Duty Policy Changed on Automobile

### Parts imported for Assembly in China

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#### **Recent Policy Development**

On August 15, 2009, the PRC National Development and Reform Commission (“NDRC”) and the Ministry of Industry and Information Technology (“MIIT”) jointly released an announcement (“Order 10”) to amend China’s *Policies for the Development of the Automobile Industry* (“Policies”). Pursuant to Order 10, commencing from September 1, 2009, the six provisions in the Policies regarding the import management of auto parts are repealed. This has been considered to be the first substantial revision since the Policies were promulgated in 2004.

On August 18, the General Administration of Customs (“GAC”), the Ministry of Commerce (“MOFCOM”), the Ministry of Finance (“MOF”) and NDRC further published an official circular (or notification) called the *Decision on Abolishing the Administrative Measures for the Import of Automobile Components and Parts for the Assembly of Processed Vehicles* (“Circular 185”) to rescind the *Administrative Measures for the Import of Automobile Components and Parts for the Assembly of Processed Vehicles* (“Administrative Measures”) which was promulgated on February 28, 2005. Circular 185 is to implement Order 10 with respect to rescission of the previous customs duty on imports of substantial foreign parts and components to be assembled in China.

#### **60% Rule Abolished**

Order 10 and Circular 185 revise the related customs duty treatments for imported automobile parts prescribed under the Administrative Measures. According to the Administrative Measures, any imported auto parts with “features of complete vehicles” will



be subject to a much higher customs duty rate applicable to imports of complete vehicles. Specifically, for example, if the total value of any imported auto parts and components of a vehicle reach 60% of the total value of the vehicles, such import will constitute “features of complete vehicles” under the Administrative Measures and therefore would be subject to the same customs duty rate applicable to complete vehicles. Given the fact that the China customs imposes a 25% import duty on vehicles but only a 10% duty on auto parts and components, the costs for the imported auto parts were significantly higher than usual prior to Order 10 and Circular 185 if the “features of complete vehicles” was established.

The US, Canada and the EU jointly lodged a complaint with the WTO in 2006 claiming that the Administrative Measures violated the WTO principles. The related parties conducted consultations but no agreement was reached. The WTO finally ruled in December 2006 that China failed to comply with the national treatment principle and China was required to change the policy.

Therefore, Order 10 and Circular 185 that repelled the 60% Rule are consistent with the WTO Ruling and therefore removed the conflict between the Administrative Measures and the WTO principle.

### **Conclusions**

The abolition of the Administrative Measures obviously will benefit the Chinese automobile sector to the extent that the luxury vehicle business will pay normal import duties on imports of substantial auto components and parts for assembling in China.

As Order 10 and Circular 185 has taken effect on September 1, 2009, auto parts imported after that date will not be subject to the “features of complete vehicles” review under the Administrative Measures (i.e., the 60% rule) if the new policy is implemented fully.

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