

Public Notice No. 84, 2009 of Ministry of Commerce on Initiation of Countervailing Investigation on U.S. Sedans and Sport Utility Vehicles of Cylinder Capacity \geq 2000cc

2009-11-06

[Published by] Ministry of Commerce of the People's Republic of China
[Document No.] Public Notice No. 84, 2009
[Published on] 2009-11-06

On September 9, 2009, the Ministry of Commerce ("MOFCOM") formally received an anti-dumping and countervailing ("CVD") petition filed by the China Association of Automobile Manufacturers, which represents domestic producers of sedans and sport utility vehicles of cylinder capacity \geq 2000cc ("the product") requesting a CVD investigation against the product originating from the United States.

In accordance with Article 16 of the REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON COUNTERVAILING MEASURES, MOFCOM extended an invitation for consultations on the CVD investigation to the Government of the United States, and held a consultation with the U.S. side on November 3, 2009.

Following relevant provisions of the REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON COUNTERVAILING MEASURES, MOFCOM examined the petitioner's qualifications, related information about the product, related conditions of like products, the impact of the product on the domestic industry as well as relevant information for the exporting country. At the same time, MOFCOM examined the allegations of subsidy programs and injury listed in the petition as well as evidence of the linkage between the two that were provided by the petitioner. The preliminary evidence provided by the petitioner proved that the product produced by the domestic producers represented by the petitioner, the China Association of Automobile Manufacturers, accounted for more than 50 percent of the total production of Mainland Chinese producers from 2006 to the first three quarters of 2009. Consequently, the petitioner is qualified to apply for a CVD investigation in accordance with Article 11, Article 13 and Article 17 of the REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON COUNTERVAILING MEASURES. In addition, the petition contains information and evidence required by Article 14 and Article 15 of the REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON COUNTERVAILING MEASURES regarding initiation of CVD investigations.

Based on the examination result and Article 16 of the REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON COUNTERVAILING MEASURES, MOFCOM decides to initiate a CVD investigation against the product from the United States. Relevant matters are now announced as follows:

I. Initiation and Investigation Period

On the date the Public Notice is published, MOFCOM initiates the investigation. The period of the CVD investigation is from September 1, 2008 to August 31, 2009, and the industry injury investigation period is from January 1, 2006 to September 30, 2009.

II. The Subject Merchandise and Scope of the Investigation

Scope of investigation: Imported sedans and sport utility vehicles of cylinder capacity \geq 2000cc originating from the United States.

Subject merchandise: Sedans and sport utility vehicles of cylinder capacity \geq 2000cc, the main components of which are the engine, chassis, the main body, electrical equipment and others.

Main application of the subject merchandise: The product is widely used in transportation, and is mainly used in passenger and luggage transportation.

The subject merchandise is categorized under the following tariff numbers according to the IMPORT AND EXPORT TARIFF Code OF THE PEOPLE'S REPUBLIC OF CHINA: 87032351, 87032352, 87032359, 87032361, 87032362, 87032369, 87032411, 87032412, 87032419, 87032421, 87032422, 87032429, 87033221, 87033222, 87033229, 87033311, 87033312, 87033319, 87033321, 87033322, 87033329, 87033361, 87033362, 87033369 and 87039000.

III. CVD Programs

In the petition, the petitioner alleged that the U.S. government provided 31 subsidy programs to the subject merchandise and U.S. producers. After the examination, MOFCOM decides that the investigation will cover the following alleged subsidy programs:

- A. Subsidy programs under the U.S. Energy and Water Development and Related Agencies Appropriation Act
- B. Subsidy provided under the automobile industry financing program
- C. Funds for fuel-efficient vehicles
- D. Funds for developing electric vehicles
- E. Advanced Technology Vehicles Manufacturing Loan Program
- F. Subsidy programs under the auto industry restructuring plan and the Troubled Asset Relief Program
- G. Subsidy programs for developing new-energy vehicles
- H. Subsidy programs under the U.S. Department of Energy's automobile industry development projects
- I. Subsidy programs under the Auto Supplier Support Program
- J. Subsidies provided under the U.S. Export/Import Bank's export financing programs
- K. Subsidy benefit to the U.S. automobile industry from government procurement of new energy vehicles
- L. Subsidies to the U.S. automobile industry from the Buy American Act
- M. Subsidy programs under the procuring American vehicles provision contained in the U.S. Energy and Water Development and Related Agencies Appropriation Act
- N. A tax incentive package provided by the State of Michigan to General Motors
- O. State tax credit granted to Chrysler by the State of Michigan
- P. Tax incentives provided by the State of Michigan to Ford
- Q. Tax reduction and exemption for hybrid vehicles
- R. Tax credit for battery-fuel vehicles
- S. Consumer energy tax stimulus

- T. Tax credit for U.S. exports
- U. Assistance that Chrysler received from the State of Michigan and the United Auto Workers
- V. Subsidies to the U.S. automobile industry due to special environmental exemption deals
- W. Assistance to the U.S. automobile industry under the 1984 Clean Coal Technology Program
- X. Subsidies under the “Cash for Clunkers” Program

And MOFCOM will not investigate the following alleged subsidy programs:

- A. Subsidies by the Pension Benefits Guarantee Corporation
- B. Subsidy programs under the 2003 Medicare Prescription Drug, Improvement, and Modernization Act
- C. Financial assistance provided under the Economic Recovery Tax Act of 1981
- D. Financial assistance provided under the Tax Reform Act of 1986
- E. Subsidy benefits received by the U.S. automobile industry due to the Steel Import Stabilization Act of 1984
- F. Financial assistance to the U.S. automobile industry passed through subsidized oil and gasoline
- G. Assistance to the U.S. automobile industry passed through subsidies by states to the rubber tire industry

IV. Registration to Respond to the Investigation

For the subsidy investigation, interested parties and relevant government can register with the Bureau of Fair Trade for Imports and Exports of MOFCOM (“BOFT”) within 20 days of release of this Notice. Responding exporters and manufacturers shall submit data regarding volume and value of the product exported to China from September 1, 2008 to August 31, 2009. The Registration Form for Subsidy Investigation (Sample) can be downloaded from the Column “Announcement” of the BOFT website: <http://gpj.mofcom.gov.cn>.

For the industry injury investigation, interested parties and relevant government can register with the Industry Injury Investigation Bureau of MOFCOM (“IBII”) within 20 days of the release of this Notice. The IBII registration form shall contain the information on production capacity, output, inventory, production capacity under construction, planned production capacity, as well as volume and value of the product exported to China during the period of investigation. The “Application for Participating in the Industry Injury Investigation of Saloon Cars and Sport Utility Vehicles (of Cylinder Capacity \geq 2000cc)” can be downloaded from <http://www.cacs.gov.cn/cacs/anjian/anjianshow.aspx?str1=1&articleId=62087>.

V. No Registration and Not Respond to Investigation

If an interested party and relevant government fails to register with MOFCOM within the time period specified in the Notice, MOFCOM has the right to reject materials later submitted by them and to issue a determination based on the best information available.

VI. Rights of Interested Parties and Interested Government

Interested parties and relevant government can submit their comments to MOFCOM in writing during the above-mentioned time period for registration, if they object to the scope of the investigation, qualifications of the petitioner, the subject countries/regions and other relevant issues.

Interested parties and relevant government can access the public version of the petition in the MOFCOM public reading room during the above-mentioned time period.

VII. Investigation Methods

The investigation authority will gather information from interested parties and relevant government and proceed with the investigation through questionnaires, sampling, hearings, on-the-spot verification and others.

VIII. This investigation starts on November 6, 2009, and normally will be concluded by November 6, 2010, but could be extended to May 6, 2012 under special circumstances.

IX. MOFCOM Contact Information

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Bureau of Fair Trade for Imports and Exports of the Ministry of Commerce

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Bureau of Industry Injury Investigation of the Ministry of Commerce

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It is hereby notified.

Appendix: BOFT Registration Form

Ministry of Commerce of the People's Republic of
China

November 6, 2009