

***CHINA – ANTI-DUMPING AND COUNTERVAILING DUTY MEASURES
ON CERTAIN AUTOMOBILES FROM THE UNITED STATES
(DS440)***

**CLOSING STATEMENT OF THE UNITED STATES OF AMERICA
AT THE FIRST SUBSTANTIVE MEETING OF THE PANEL**

June 26, 2013

Mr. Chairman, Members of the Panel.

1. The United States would like to begin by thanking the Panel and the Secretariat staff for your efforts in the preparation for and conduct of this hearing. We hope that the discussion held here yesterday and today has been of use to the Panel as you grapple with the issues in this dispute.
2. As we noted in our opening statement, this is the third dispute that the United States has brought concerning China's application of trade remedy measures, and each of these disputes addresses similar problems under the same substantive provisions of the covered agreements. Indeed, a review of the panel report in *China – GOES* shows that China is making some of the same exact arguments here that it made in that dispute. For example, at paragraph 7.378 of that report, the panel writes: "China's position is that exporters or producers that did not register for the investigation were 'non cooperating' and therefore the application of facts available . . . was warranted." The *China – GOES* panel rejected that argument and many of China's other arguments. We believe the Panel here should find that panel's reasoning persuasive, and should likewise reject China's arguments in this dispute.
3. At times, listening to China's interventions during this meeting, it appeared that China was arguing that because MOFCOM followed its own procedures and exercised its seemingly boundless discretion, everything MOFCOM did in the autos investigations was consistent with China's WTO obligations. However, the fact that MOFCOM took certain steps and followed its own procedures is irrelevant to the issue of the WTO-consistency of its actions.
4. As we have shown, and as the third parties all seem to agree, the AD and SCM Agreements impose detailed procedural obligations and require a rigorous examination by investigating authorities so that the due process rights of interested parties are assured and so that when trade remedy measures are imposed, they are founded on positive evidence and an objective examination. The test is whether MOFCOM met the specific standards in the agreements, and in the autos investigations, MOFCOM's efforts fell far short.
5. The United States recognizes that the Panel is only at the beginning of its work, and we hope that our first written submission and our presentation over these past two days have been helpful for the Panel. We look forward to receiving the Panel's written questions and we will endeavor to provide responses that bring further clarity and understanding to the issues in this dispute.
6. The United States would like to conclude by again thanking the Panel and Secretariat for your time and attention to this matter.