



White and Williams LLP



China Business News Alert, September 2009

[www.whiteandwilliams.com](http://www.whiteandwilliams.com)

## CONTROVERSY OVER AUTOMOBILE TIRE IMPORTS

*By: Wasim Rahman, Esq.*

New fears of a tariff war between the United States and China emerged this past Friday, after the Obama administration decided to raise tariffs by 35 percent on \$1.8 billion worth of automobile tire imports from China. The new tariffs will be effective at the end of September, and add to an existing four percent tariff. The tariffs will last for three years, decreasing by five percent each year.

The decision provoked an angry response from the Chinese government, which filed a complaint with the World Trade Organization (WTO). China accused the United States of trade protectionism, in violation of their trading agreements. At the center of the controversy is the Obama administration's use of Section 421 of the U.S. Trade Act of 1974. China agreed to Section 421 as a prerequisite to joining the WTO in 2001. The section enables the United States to raise tariffs against Chinese imports that flood and disrupt the U.S. domestic market. By invoking 421, the United States can claim it is enforcing the trade agreement, rather than engaging in protectionism. The Chinese government, however, has maintained that the two countries understood that 421 would only be used in the most extreme circumstances.

By imposing the tariffs, the Obama administration is following recommendations made by the International Trade Commission (ITC), a U.S. federal agency. In April, the ITC first received a complaint from United Steelworkers labor union, claiming that the influx of Chinese tire imports had harmed the domestic tire industry. With \$1.7 billion in tire imports from China in 2008, the union alleged in its complaint that the volume of Chinese tires led to the loss of 5,000 domestic tire production jobs, with several thousand more job losses expected by the end of the year. The union further claimed that Chinese businesses planned to increase tire imports

dramatically, on top of the 215 percent increase in imports from 2004 to 2008. In June, the ITC concluded that Chinese imports were disrupting the domestic tire industry, and recommended tariffs for three years, starting at 55 percent and decreasing by 10 percent each year. The ITC findings, and the Obama administration's subsequent decision, were widely celebrated by the labor movement.

A critical issue for the Chinese government is how to refute the ITC's findings and limit use of Section 421. Arbitration is the usual avenue for the resolution of trade disputes between two countries under a WTO agreement. However, with the incorporation of U.S. law into China's WTO accession agreement, the United States can unilaterally levy high tariffs and still abide by the treaty. Accordingly, in addition to filing a complaint with the WTO, the Chinese government has threatened tariffs on imports from the United States. For example, the Chinese government launched an investigation to determine whether U.S. auto parts and chicken products are harming Chinese industries. The investigation, coupled with Chinese government statements decrying U.S. protectionism, fueled fears of reactionary trade tariffs between the two countries.

### *About the Author*

*Wasim Rahman is a member of the Business Department. He can be reached at 215.864.7186 or [rahmanw@whiteandwilliams.com](mailto:rahmanw@whiteandwilliams.com).*

*For more information regarding the new tariff regulations, please contact **Gary Biehn**, Chair of the Business Department and China Business Practice Group at 215.864.7007 or [biehng@whiteandwilliams.com](mailto:biehng@whiteandwilliams.com)) or **Tony Lu**, an associate in the China Business Practice Group at 215.864.7006 or [luc@whiteandwilliams.com](mailto:luc@whiteandwilliams.com).*