

# **CUSTOMS DUTY OR INTERNAL CHARGE? REVISITING THE DELINEATION ISSUE WITHIN TREATY INTERPRETATION IN THE *CHINA – AUTO PARTS* CASE**

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## **ABSTRACT**

*An usual side effect of trade liberalization is that with the reduction or elimination of restrictive border measures, governments tend to resort to sophisticated internal instruments to protect their industries. As a good example thereof, the China-Auto Parts case brought to the World Trade Organization (WTO) has demonstrated that delineation between a customs duty and an internal charge may not always be a straightforward exercise. The WTO tribunal embarked on comprehensive treaty interpretation based on the principles of the Vienna Convention on the Law of Treaties (VCLT) to conclude that a Chinese charge imposed on imported automobile parts was an internal charge subject to the national treatment obligation. This paper aims to provide an empirical analysis of how the VCLT is applied in WTO dispute settlement for the clarification purposes, and discuss some notable interpretative aspects of the legal findings developed in the course of litigation.*

**KEYWORDS:** *customs duty, internal charge, WTO, national treatment, VCLT, China-Auto Parts, GATT, treaty interpretation*

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