

A DIALOGUE IN THE AUTOPARTS-AUTOMOBILE CHAIN BETWEEN MEXICO AND CHINA

# Legal Framework in the AAC in China

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# 1 The Automobile Industry of China

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# 1 The Automobile Industry of China: China is an Important Market

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- ❑ China became the biggest producer and seller of auto vehicles in the world.
  - ❑ In terms of the primary statistics, both the production and the sale of the auto vehicles of China exceeded 13.5 million in 2009.
  - ❑ The top five biggest domestic auto makers accounted for more than 70% of the market share.
  - ❑ In the first five months of 2010, the production and sale of domestic made automobiles have already exceeded 7.5 million, it is predicted the amount will be 15.0 million in the whole year.
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# 1 The Automobile Industry of China

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**Table 1 The top five biggest domestic Automobile makers of China in 2009 (Million)**

	<b>Company</b>	<b>Sale</b>
<b>1</b>	<b>Shanghai Automobile (group) Corporation</b>	<b>2.72</b>
<b>2</b>	<b>China FAW Group Corporation</b>	<b>1.944</b>
<b>3</b>	<b>Dongfeng Motor Group Co.,</b>	<b>1.899</b>
<b>4</b>	<b>ChangAn Automobile (group) Liability Co., Ltd</b>	<b>1.863</b>
<b>5</b>	<b>Beijing Automotive Industry Holding Co., Ltd</b>	<b>1.20</b>

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# 1 The Automobile Industry of China

## 1.1 The Emission Standards

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### □ 1.1.1 Main Emission Standard in the World

American Standards, European Standards, and Japanese Standards

### □ 1.1.2 China's Emission Standards

China has its own Standards with reference to the European Standards.

### □ 1.1.3 The Development of China's Emission Standards

Two laws: *Environmental Protection Law of the People's Republic of China* and *Law on Protection of Air Pollution of the People's Republic of China*, which are the legal basis to control the exhaust pollutants from vehicles.

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# 1 The Automobile Industry of China

## 1.1 The Emission Standards

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### □ 1.1.3 The Classification of the Vehicles in China

The vehicles can be classified Light Vehicles and Heavy-Duty Vehicles and the later includes M2, M3, N1, N2, N3 and the vehicles of M1 whose total masses exceeds 3500 kg. Heavy-duty vehicles refer to the vehicles in the classifications M and N, whose masses exceed 3500 kg.

### □ 1.1.4 The Meaning of the National Standards of China

**GB**, **GB/T** and **GB/Z** stand for the national mandatory standard, the national voluntary standard (or recommended standard) and national standardization guide respectively. The standard of emissions is the national mandatory standard.

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# 1 The Automobile Industry of China

## 1.1 The Emission Standards

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- 1.1.5 The specific emission standards from vehicles of China

The emission standards from vehicles includes four phases, which are **phase I** , **phase II** , **phase III** and **phaseIV** (or **stage I** , **stage II** , **stage III** and **stage IV**; or **State I** , **State II** , **State III** and **State IV**) and they are equivalent to the Standards of **Euro I** , **Euro II** , **Euro III** and **Euro IV** respectively.

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# 1 The Automobile Industry of China

## 1.1 The Emission Standards

### 1.1.5 The specific emission standards from vehicles of China

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- **light vehicles:**
  - In 2001, the national standard, GB18532.1-2001 (*Limits and measurement methods for emissions from light-duty vehicles (I)*) was issued and implemented, which was equivalent to the standard of **EURO I**.
  - In 2004, the national standard, GB18532.2-2001 (*Limits and measurement methods for emissions from light-duty vehicles (II)*) was issued and implemented, which was equivalent to the standard of **EURO II**.
  - In 2005, the national standard, GB18352.3-2005 (*Limits and measurement methods for emissions from light-duty vehicles (III, IV)*) was issued and phase III began to come into being in 2007 and phase IV planned to be implemented in 2010, which are equivalent to the standard of **EURO III** and **Euro IV** respectively.
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# 1 The Automobile Industry of China

## 1.1 The Emission Standards

### 1.1.5 The specific emission standards from vehicles of China

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- **heavy-duty vehicles equipped with C.I.E. (Compression Ignition Engine):**
  - In 2001, the national standard, GB17691-2001 (*Limits and measurement methods for exhaust pollutant from C.I.E. (Compression Ignition Engine) and vehicle equipped with C.I.E.*) was issued. And phase I (**equivalent to EURO I**), phase II (**equivalent to EURO II**) were implemented in 2000 and 2004 respectively.
  - In 2005, GB17691-2005 (*Limits and measurement methods for exhaust pollutants from compression ignition and gas fuelled positive ignition engines of vehicles (III, IV, V)*) was issued and the three phases planned to be implemented in 2007, 2010 and 2012 respectively.
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# 1 The Automobile Industry of China

## 1.1 The Emission Standards

### 1.1.5 The specific emission standards from vehicles of China

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- **heavy-duty vehicles equipped with ignition engine:**
  - In 2002, the national standard, GB14762-2002(*Limits and measurement methods for exhaust pollutants from vehicles equipped ignition engine*) was issued. Then phase I (equivalent **Euro I** )and phase II (equivalent **Euro II** ) were implemented in 2003 and 2004 respectively.
  - In 2008, GB14762-2008, (*Limits and measurement method for exhaust pollutants from gasoline engines of heavy-duty vehicles (III, IV)*) was issued. It was scheduled to come in effected on July 1, 2009.
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# 1 The Automobile Industry of China

## 1.1 The Emission Standards

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- **1.1.6 The situation in Beijing and Guangdong Province**
  - The standard of emissions implemented in **Beijing**, the capital of China, is ahead of the whole country. In March of 2008, the light vehicles in Beijing should meet the standard of **State IV**. And, Since July 1, 2008, the heavy-duty vehicles equipped with C.I.E. should also meet the standard of **State IV**.
  - In **Guangdong province**, since June 1, 2010, the light vehicles and heavy-duty vehicles equipped with C.I.E and gas fuelled positive ignition engines should be implemented the standard of **State IV**.
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# 1 The Automobile Industry of China

## 1.1 The Emission Standards

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With the implementation of the strict standard of emissions in recent years, China is trying to keep up the standard of Europe and the distance between the two sides is narrowing.

**Table 2 the year of implementation of the emission standards of light vehicle in China and Europe**

<b>Standard</b>	<b>The year of implementation in China</b>	<b>The year of implementation in Europe</b>	<b>China Leg-behind (years)</b>
<b>Before State I (Euro 0)</b>	<b>1990</b>	<b>1973</b>	<b>17</b>
<b>State I (Euro I)</b>	<b>2000</b>	<b>1992</b>	<b>8</b>
<b>State II (Euro II )</b>	<b>2004</b>	<b>1996</b>	<b>8</b>
<b>State III (Euro III)</b>	<b>2007</b>	<b>2000</b>	<b>7</b>
<b>State IV (Euro IV)</b>	<b>2010</b>	<b>2005</b>	<b>5</b>

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# 1 The Automobile Industry of China

## 1.2 Safety standards that the finish car needs to meet

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- The **Standardization Administration Committee of the People's Republic of China** has issued the National Standards of Passenger Car, National Standard of Pick-up and MFV, National Standard of Truck, National Standard of Special-Purpose Vehicle, National Standard of Motorcycle, and National Standard of the Vehicle with New Energy, etc..
  - Most of the safety standards of vehicles belong to the **national mandatory standard**.
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# 1 The Automobile Industry of China

## 1.2 Safety standards that the finish car needs to meet

<b>Part I Active Safety Standards</b>			
<b>Lighting &amp; Lighting Signaling devices</b>			
<b>Sequence No.</b>	<b>Standard No.</b>	<b>Standard Title in English</b>	<b>The Date of Implementation</b>
<b>1</b>	<b>GB 4599-2007</b>	<b>Motor vehicle headlamps equipped with filament lamps</b>	<b>June 1, 2008</b>
<b>2</b>	<b>GB4660-2007</b>	<b>Motor vehicle front fog lamps equipped with filament lamps</b>	<b>June1, 2008</b>
<b>3</b>	<b>GB5920-2008</b>	<b>Photometric characteristics of front and rear position lamps, end-outline marker lamps and stop lamps for motor vehicles and their trailers</b>	<b>Jan. 1, 2010</b>

# 1 The Automobile Industry of China

## 1.2 Safety standards that the finish car needs to meet

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**Table 3 Safety Standards of Vehicles of China**

<b>Part I Active Safety Standards</b>
Lighting & Lighting Signaling devices
Braking, Steering, Tires
<b>Part II Passive Safety Standards</b>
Seats, Safety Belts, Projections
Collision and Protection
Fire Prevention
<b>Part III General Safety Standards</b>
Visibility
Indicating and Signaling Devices
Vehicle Structures and Theft Proof

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## 2 The Auto Parts Industry of China

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- ❑ **CCC Scheme for Auto Component Products**
  - ❑ • China Compulsory Certification (i.e. CCC) came into effect from December 1, 2006.
  - ❑ • Policy Issuers are **State General Administration for Quality Supervision, Inspection and Quarantine, State Regulatory Commission for Certification and Accreditation.**
  - ❑ • Some of the examples of auto part products that must be marked with CCC labels before being sold, imported or used in other operating activities are as follows:
    - ❑ - Lamps, reflectors, mirrors and horns
    - ❑ - Vehicle travelling data recorder
    - ❑ - Automobile brake hoses
    - ❑ - Fuel tanks
    - ❑ - Door locks and hinges
    - ❑ - Upholstery and decorative materials
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# 3 The Investment Management of China

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- **3.1 Laws and Regulations Relating the Foreign Investment in Auto Industry in China**
  - *Law of the People's Republic of China on Chinese-Foreign Equity Joint Ventures, and Regulations for the Implementation of the Law.*
  - *Law of the People's Republic of China on Chinese-Foreign Contractual Joint Ventures and Regulations for The Implementation of the Law*
  - *Law of the People's Republic of China on Foreign-funded Enterprises and Rules for the Implementation of the Law*
  - *Catalogue of Foreign Investment Industries (2007)*
  - *Catalogue of Priority Industries for Foreign Investment in the Central-Western Region*
  - *Regulation on Foreign Investors Merging and Acquiring Domestic Enterprises*
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## **3 The Investment Management of China**

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### **3.2 Main Departments of China in charge of Foreign Investment**

- The State Development and Reform Commission of the People's Republic of China
  - The Ministry of Commerce of China
  - The Governmental Administration Department for Investment at the Provincial Level
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# 3 The Investment Management of China

## 3.3 Legal aspects related with the installation of a manufacturing facility

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### 3.3.1 Country and province permits to operate the facility

- **Article 40:** To reform the examination and approval management system for investment projects of motor vehicle production enterprise to undertake two forms—**registration system for the record** and **approval system**—in accordance with the principle of benefiting enterprises in independent development and government in macro control.
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# 3 The Investment Management of China

## 3.3 Legal aspects related with the installation of a manufacturing facility

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### 3.3.1 Country and province permits to operate the facility

**Article 41:** Investment projects under the registration system for the record:

- ❑ Expansion of production capacity of the same types of products and increase of varieties by the existing motor vehicle, farm transport vehicle and vehicle engine production enterprises with self-raised funds, including launching of new production units of the same product in the places with non-independent legal corporation position.
  - ❑ Investment in production of motorcycles and motorcycle engines.
  - ❑ Investment in production of parts and accessories of motor vehicles, farm transport vehicles and motorcycles.
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# 3 The Investment Management of China

## 3.3 Legal aspects related with the installation of a manufacturing facility

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### 3.3.1 Country and province permits to operate the facility

- **Article 42:** The projects in the first of the investment projects undertaking the registration system for the record should be reported to the State Development and Reform Commission for the record by the investment administration department of the provincial government or enterprises groups under unified planning of the central government; and those in the second and the third sections the investment projects should be reported to the investment administration department of the provincial government for the record.
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# 3 The Investment Management of China

## 3.3 Legal aspects related with the installation of a manufacturing facility

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### 3.3.1 Country and province permits to operate the facility

**Article 43:** Investment projects under the system of approval:

- ❑ Launching of new motor vehicles, farm transport vehicles and vehicles engine production enterprises, including launching of a new production enterprise in other places by the existing automobile manufacturers with independent legal person position.
  - ❑ Existing automobile manufacturers producing other types of complete vehicle products.
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# 3 The Investment Management of China

## 3.3 Legal aspects related with the installation of a manufacturing facility

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### 3.3.1 Country and province permits to operate the facility

- **Article 44:** Investment projects under the system of approval should be reported to the **State Development and Reform Commission** for examination by the governmental administration department for investment at the provincial level or enterprises groups under unified planning of the central government. Of this, investment projects for production of special-purpose vehicles should be reported to the State Development and Reform Commission for the record by the governmental administration department for investment at the provincial level after examination and approval, and new Sino-foreign joint venture passenger car projects should be reported to the State Development and Reform Commission for examination and approval.
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# 3 The Investment Management of China

## 3.3 Legal aspects related with the installation of a manufacturing facility

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- 3.3.2 Restrictions to ownership in Auto Industry
  - Article 48: Chinese partners in Sino-foreign joint venture production enterprises of complete vehicles, special-purpose vehicles, farm transport vehicles and motorcycles should control a share of not less than 50 percent. One of the legal persons of the Chinese party must have the comparative controlling share and more than the total of the foreign counterparts when a listed company with limited liability of complete vehicles, special-purpose vehicles, farm transport vehicles and motorcycle is selling the corporate share to the public. A foreign company can launch joint ventures not exceeding two (including two), which produce the same types of complete vehicles (passenger vehicles, commercial-use vehicles and motorcycles). Foreign automobile manufacturers will be allowed to have more than two joint ventures in China if the joint forces with their existing joint venture's Chinese partners to merge other companies in China. If a foreign enterprise with legal person qualification controls a majority stake in another enterprise, they will be treated as one company in China.
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# 3 The Investment Management of China

## 3.3 Legal aspects related with the installation of a manufacturing facility

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### 3.3.2 Restrictions to ownership in Auto Industry

- **Article 49:** Both Chinese and foreign automobile production enterprises launching export-oriented automobile and vehicles engine projects in an export processing zone are not under the constraints of the policy, but should be reported to the State Council for examination and approval under a special category.
  - **Article 50:** Various parties of Sino-foreign joint venture automobile production enterprises should report to the original approval department for necessary procedures for the extension of the co-operation term, and alteration of share proportion or foreign shareholders.
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# 3 The Investment Management of China

## 3.3 Legal aspects related with the installation of a manufacturing facility

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### 3.3.3 New investment projects should comply with the following conditions:

- Total Investment
  - Registered Capital
  - Asset/Liability Ratio
  - New Investment Project
  - Production Scale
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# 3 The Investment Management of China

## 3.4 The Investment in the Auto-Parts Industry

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- No limitation to the proportion of shares for engines manufacturers and parts and accessories manufacturers
  - In China, foreign side controls an auto parts and accessories company is obvious.
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# 3 The Investment Management of China

## 3.4 The Investment in the Auto-Parts Industry

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- ❑ Volkswagen took 60% of stocks in the joint engine enterprise, and Toyota took 70% of stocks in the joint engine enterprise.
  - ❑ Some joint ventures gradually became wholly foreign-funded enterprises in recent years. Tanshan Aisin Gear CO., became a Japanese solely funded enterprise.
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## 4. The Incentive Policies of China

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### 4.1 *Catalogue of Foreign Investment Industries (modification in 2007)*

- *The Communication and Transportation Equipment Industries within in the Catalogue of Encouraged Foreign Investment Industries in 2007.*
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## 4. The Incentive Policies of China

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### 4.2 The automobile industry restructuring and revitalization plan

- Auto production and sales in 2009 and strive to more than 10 million, three-year average growth rate of 10%.

### 4.3 Automobile Industry Development Policy

- The policy was executed on May 21, 2004 and was modified in 2009.
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## 5. Import management

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- 5.1 Tax shall be levied on imported complete vehicles and parts and accessories by strictly following the tariff rate to prevent evasion and losses. Related State functional departments shall conduct inspection and examination of such links as application of quota, declaration on import, and product access.
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## 5. Import management

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- **5.2** The State designates four coastal **ports—Dalian New Port, Tianjin New Port, Shanghai Port and Huangpu Port-** and two land **ports—Manzhouli and Shenzhen(Huanggang),** as well as **Xinjiang Alataw Pass**(which handles import of complete vehicles for use in Xinjiang Uygur Autonomous Region and vehicles originally manufactured in the Commonwealth of Independent States ) to be ports handling import of complete vehicles. Imported complete vehicles must enter China via the above ports. Since the year of 2005, all bonded zones in the importing ports have not been permitted to store motor vehicles imported for sales on the domestic market.
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## 5. Import management

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- **5.3** The State bans the import of second-hand vehicles and motorcycles and their parts in the forms of trade and donations, and dismantling and renovation of general assemblies and parts of old vehicles imported in the name of iron and scrap steel and scrap metals. Repairing products from the overseas pr for re-export can be conducted within the export processing zone, but dismantling and renovation of old motor vehicles and motorcycles are not permitted.
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# The End

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**Thank you!**