

INDIA – MEASURES AFFECTING THE AUTOMOTIVE SECTOR

Request for the Establishment of a Panel by the European Communities

The following communication, dated 12 October 2000, from the Permanent Delegation of the European Commission to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 6 October 1998 the European Communities (EC) requested consultations with the Government of India pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXII of the General Agreement on Tariffs on Trade 1994 (GATT) and Article 8 of the Agreement on Trade-Related Investment Measures (TRIMs Agreement) with respect to certain measures affecting the importation and internal sale of automotive products (WT/DS146/1).

The EC and India held consultations in Geneva on 2 December 1998. Unfortunately those consultations failed to resolve the dispute.

The measures concerned are contained in:

- Public Notice No. 60 (PN 97-02) of the Indian Ministry of Commerce, effective 12 December 1997; and
- the Memorandums of Understanding (MoUs) entered into by certain manufacturers of automobiles with the Government of India pursuant to Public Notice No 60.

The above measures require manufacturers of automobiles to sign an MoU as a condition for obtaining licenses for importing automotive products that are currently subject to import restrictions. According to the Indian authorities, the MoUs are “binding” and “enforceable” instruments, which shall remain valid after the date when those restrictions are eliminated. The MoUs require (i) to establish “actual production facilities” in India; (ii) to make a minimum investment; (iii) to achieve a certain level of “indigenisation”; and (iv) to export a certain amount of automotive products.

The EC considers that the requirements imposed by the above measures are in violation of Articles III:4 and XI:1 of GATT and of Article 2.1 of the TRIMs Agreement.

In view of the above, the EC hereby request that a panel be established at the next meeting of the Dispute Settlement Body pursuant to Articles 4.7 and 6 of the DSU, Article XXIII of GATT and Article 8 of the TRIMs Agreement, in accordance with the standard terms of reference provided for in Article 7.1 of the DSU.
