

WORLD TRADE ORGANIZATION

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Council for Trade in Goods

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QUESTIONS FROM THE GOVERNMENT OF THE UNITED STATES REGARDING THE TRIMS EXTENSION REQUEST MADE BY THE GOVERNMENT OF MALAYSIA

The following communication, dated 8 February 2000, has been received from the Permanent Mission of the United States.

Measures

1. Please describe in detail the measures that are included in the Government of Malaysia's ("GOM") request. Could the GOM please elaborate beyond the description provided in previous submissions? For example for the TRIMs in the motorcycle, passenger car and commercial vehicles sectors:
 - (a) What percentage of local content is currently required?
 - (b) What kinds of local goods qualify (anything? some parts but not others? etc.)
 - (c) What domestic and foreign producers are required to comply with these measures?
 - (d) Are there any (local or foreign-owned) entities that are exempt?
2. Regarding the "administrative measures" described in paragraph 2.3 in the GOM notification (G/TRIMS/N/1/MYS/1/Rev.1):
 - (a) What is meant by "administrative measures"?
 - (b) Please provide a list of all measures to which the notification applies, and the date of such measures.
 - (c) Have copies been published, and if so, where?
 - (d) Which of these measures is still in force, and which have expired or been rescinded?
3. How have the measures changed over time?
 - (a) Have there been any changes to the measures covered by your extension request since 1 January 1995? If so, what are they? For example, have these measures increased the amount or percentage of local content required since 1 January 1995?
 - (b) Your TRIMs notification states that there are no advantages given to participants in this program. Is this still accurate? If not, please detail the advantage including what formulas are used to decide on the scope of the benefits and what is the total value of such benefits?
4. The implementing agency, as listed in the GOM's TRIMs notification is the Malaysian Industrial Development Authority (MIDA). Is this statement still accurate?

- (a) What responsibilities does this organization have generally?
- (b) What are its responsibilities with respect to the TRIMs measures and the motor vehicle sector?
- (c) Are there any other GOM agencies or other entities or persons with responsibility for implementing or otherwise supervising the measures identified in question 1?

Basis for the Extension Request

- 5. The GOM extension request provided to the Council for Trade in Goods asserts that the “financial crisis, which also affected Malaysia, severely impacted the development of the motor vehicle industry” and that the “economic downturn resulted in significant decline in demand where sales of motor vehicles contracted.” Please elaborate on the basis for your request, for example:
 - (a) How was the two-year period determined? What was the empirical evidence examined to gauge that an additional two years would be required to ensure that your industry would recover?
 - (b) What is the basis of the statement that 200 companies would close if the TRIMs measures were removed? What types of companies are these?
 - (c) Please provide details of the consolidation and readjustment alluded to in the final paragraph of your request. Please explain why these events support your request.
 - (d) What evidence can be provided to show that the motor vehicle program has spawned local entrepreneurs, “particularly in the indigenous community?”
 - (e) Article 5.3 of the TRIMs Agreement requires the Council for Trade in Goods to conclude that an applicant for an extension has demonstrated “particular difficulties.” How does the GOM consider that the difficulties it has described fit this requirement?
 - (f) What makes these difficulties different from other Members’ situations?
- 6. Paragraph 2.1 of the GOM notification says that the motorcycle industry already exceeded the local content requirement.
 - (a) Is this still accurate?
 - (b) If so, does the GOM extension extend to motorcycles?
 - (c) If so, how is this justified given that motorcycles are above the minimum local content requirement?
- 7. Another key factor to focus on is employment:
 - (a) Is there any basis for an assumption that jobs have been created by the TRIMs-related policies since 1995?
 - (b) What was the total employment in the industry before the TRIMs policy, and what are current employment figures?
 - (c) Is there any basis for an assumption that jobs will be created or saved by the continuation of the TRIMs-related policy after 1 January 2000?
 - (d) Which entity, agency or persons analyzed your employment estimates?
- 8. With respect to “development, financial, and trade needs” referenced in Article 5.3:
 - (a) How is the maintenance of these TRIMs part of the development plans and needs of Malaysia?
 - (b) How long have such TRIMs been part of the development plans and needs?

- (c) How can it be determined that these same development policies will not still be used and needed after a two year period? Why should one expect that this policy will be different 1, 2, 5, or 10 years from now?
 - (d) Were the GOM's development policies part of the development needs and plans of the GOM prior to the Uruguay Round?
 - (e) What are the financial needs of the GOM related to the maintenance of the TRIMs?
 - (f) What analysis has been conducted to determine whether the elimination of the TRIMs would actually increase, decrease, or be neutral concerning the financial needs of Malaysia?
 - (g) Are there any other particular issues that the GOM believes should be taken into account with respect to these factors? Please describe and discuss such issues.
9. Please describe the domestic motor vehicle production and parts and components industries in detail. What efforts have they taken to modernize or be more competitive internationally over the last five years? Additionally:
- (a) Please describe the specific manner in which the notified TRIMs have been administered in connection with specific motor vehicle production projects (by manufacturer and models).
 - (b) Please also explain which projects benefitted from TRIMs prior to the 1995 notification of such measures to the WTO, and the motor vehicle projects to which TRIMs have been extended since 1995.
 - (c) Given that, according to some estimates, domestic production accounts for more than 80 percent of the Malaysian market for motor vehicles -- which suggests that TRIMs and other government measures have substantially promoted the domestic industry -- how should WTO Members evaluate Malaysia's request for an extension?
 - (d) Has production capability in the projects covered by the extension request increased during the period from 1997 to the present?
10. Prior to making the decision to request an extension, what measures had the relevant industries and the GOM undertaken to begin the transition to a system that did not rely on TRIMs?
- (a) What types of liberalization adjustments were or were not completed?
 - (b) At what point did the GOM make the decision to stop this process of becoming TRIMs consistent (or does the process continue)?
 - (c) What would the process be for changing the local content requirements -- (*i.e.*, administrative changes, legislative changes)?
 - (d) How quickly could such changes be implemented?
11. What types of efforts were undertaken to prepare the relevant industries for the removal of TRIMs on 1 January 2000? Specifically:
- (a) Did the GOM conduct discussions with the private sector and with labour organizations at that time and even well before the completion of the Uruguay Round to inform them that these policies would be eliminated in 2000?
 - (b) What kind of domestic consultation process concerning TRIMs has been conducted over the past five years?
 - (c) What administrative or legislative steps have which offices and officials explored with which industry and labour groups?
 - (d) Are there legislative or administrative drafts that have been submitted for consideration over the past 5 years?

- (e) What plans exist for adjusting to the elimination of such TRIMs if there is no grant of an extension from the Council?
12. Has the GOM considered other non-TRIMs options that would protect the domestic industry but would allow for the elimination of your TRIMs regime as it currently exists? For example:
- (a) Why is it necessary to retain the local content requirements in all sectors (i.e., motorcycles, passenger cars and commercial vehicles)?
 - (b) Please describe the analysis/research that the GOM undertook (including alternatives to a TRIMs extension that were considered) to ensure that the measures included in the GOM's extension request need to be retained.

Statistics

13. What is the GOM's estimation (both in production amounts and values) of future foreign investment in its domestic market by manufacturers of motor vehicles and related industries such as motor vehicle parts production?
14. What is the history of investment inflows due to the Malaysian TRIMs program? Specifically:
- (a) Have investments increased since the TRIMs policy was introduced?
 - (b) From which WTO members have the investments originated?
 - (c) Would investment decrease if the TRIMs policy were eliminated?
 - (d) What studies have been done of this possibility?
15. What are the destinations for exports from Malaysia for 1998 (i.e., what countries) for motorcycles, passenger cars, commercial vehicles and motor vehicle parts and what are the values and quantities (if applicable) of these exports?
16. What are the figures for: production, sales, exports, and imports of motorcycles, passenger cars, commercial vehicles, SKDs, CKDs, and motor vehicle parts and components for 1996, 1997, 1998, and, if available, 1999? In addition, what is the forecast for your industry for the year 2000?
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