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Committee on Trade-Related Investment Measures

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NOTIFICATION UNDER ARTICLE 5.1 OF THE AGREEMENT ON TRADE-RELATED INVESTMENT MEASURES

Ecuador

The following communication, dated 20 March 1996, was received from the Permanent Mission of Ecuador, with reference to paragraph 76 of the Report of the Working Party on the Accession of Ecuador (WT/L/77).¹

I. Description of the measure and its main features

Within the context of the Andean Subregional Pact and by virtue of the provisions of Chapter IV, Section B of the Cartagena Agreement, on 13 September 1993, Ecuador together with Colombia and Venezuela signed the Complementarity Agreement for the Automotive Sector, with a view to adopting a common policy to promote specialization in the sector and take advantage of the wider subregional market in a rational manner and under equitable competitive conditions.

Under the Complementarity Agreement for the Automotive Sector, the Government of Ecuador requires vehicle assembly enterprises to incorporate a percentage of local content in vehicles assembled in the country.

This policy has become more flexible in the regional framework of the Andean Pact, which requires assembling enterprises to incorporate a minimum content of materials produced in the signatory countries to the Agreement, rather than of domestic production.

1. Which is the category in the illustrative list under which the measure falls?

Under the Annex to the TRIM Agreement, the category of the illustrative list under which this measure falls is Number 1, paragraph (a).

2. Is the TRIM applied by the Government under discretionary authority or mandatory legislation?

The TRIM is applied under a general law.

3. Where the TRIM is general in nature, what are the criteria for determining to which enterprises it applies?

The measure applies to any national or foreign vehicle assembly enterprise in Ecuador.

¹The information in this notification was previously submitted by Ecuador to the Working Party on the Accession of Ecuador in document WT/ACC/ECU/2 of 17 May 1995.

4. Where the TRIM is applied pursuant to mandatory legislation, does the legislation require the measure to be applied to new enterprises or new investments of existing enterprises?

The relevant Andean provisions apply to all existing national or foreign assembly enterprises in the country and to any that may be established in the future.

5. Whether compliance with the measure by the enterprise is (a) mandatory or enforceable under domestic law or administrative rulings or (b) necessary to obtain an advantage. In the latter case, the nature of the advantage should be described.

The Andean provisions are mandatory and apply generally to all assembly enterprises in the country.

6. When the TRIM relates to specific products, sufficient detail on these products to define the scope of the measure must be provided.

The minimum percentages to be incorporated apply to vehicle assembly, divided into two categories:

(a) For category 1: The current requirement is 35 per cent, which will increase to 40 per cent from 31 December 1995.

(b) For category 2: The requirement is currently 35 per cent.

7. The date of implementation of the TRIM and the nature of any modification of the TRIM effected within 180 days prior to the entry into force of the WTO Agreement.

The measure has applied in Ecuador since it was signed. The Agreement introduced the concept of a percentage of subregional purchases, a formula for calculating it and requirements for the corresponding content.

8. In applying the TRIM, under previous legislation, is there a provision for its phasing down and/or elimination?

No provision has been made for its phasing down and/or elimination.

9. The domestic law, regulation or administrative guideline under which the TRIM is applied; a copy should be submitted to the Secretariat to be available for inspection by interested members.

A copy of the Complementarity Agreement for the Automotive Sector is annexed.²

10. The level of Government applying the TRIM, the name of the implementing agency and any information on the procedures governing its application necessary to establish its nature and scope.

The Ministry of Industry, Trade, Integration and Fisheries (MICIP) is the body responsible for applying and enforcing the measure. The Ministry requires a report every six months by enterprise and by category of the percentage of subregional purchases, and each year a report by specialist audit and control entities, contracted directly by assembly and autopart enterprises.

²Copies of this document are available in the Secretariat for inspection by interested delegations (Intellectual Property and Investment Division).

II. General information on the programme in question

The policy of supporting the automotive sector pursued by Ecuador falls under the Complementarity Agreement for the Automotive Sector of the Andean Pact, which was conceived as a means of promoting the development of the incipient regional automotive industry.