

INDONESIA - CERTAIN MEASURES AFFECTING THE AUTOMOBILE INDUSTRY

Request for Consultations by the United States

The following communication, dated 8 October 1996, from the Permanent Mission of the United States to the Permanent Mission of Indonesia and the Dispute Settlement Body is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Government of Indonesia pursuant to Articles 1 and 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXII:1 of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 8 of the Agreement on Trade-Related Investment Measures (to the extent it incorporates by reference Article XXII of the GATT 1994), Articles 7 and 30 of the Agreement on Subsidies and Countervailing Measures (to the extent Article 30 incorporates by reference Article XXII of the GATT 1994), and Article 64 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (to the extent it incorporates by reference Article XXII of the GATT 1994) regarding certain measures affecting trade and investment in the motor vehicle sector implemented by Indonesia through Presidential Decrees 54/1993 and 42/1996, Presidential Instruction 2/1996, numerous ministerial decrees and government regulations, and other governmental measures.

The measures in question provide, *inter alia*, for benefits to manufacturers of motor vehicles and parts in the form of a reduction in duties on their imports of certain products and a reduction in or elimination of taxes on the sale of motor vehicles. These benefits are conditional to varying degrees on compliance with domestic content requirements, local content requirements with regard to inputs, and the use of a trademark that is unique to Indonesia and owned by Indonesians. The Minister of Industry and Trade and the Minister of Finance are directed to implement the program through decrees and regulations in accordance with the general Presidential mandate.

The United States considers these tax and tariff benefits tied to domestic content to be specific subsidies within the meaning of Articles 1 and 2 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement). The total subsidization indicates serious prejudice in accordance with Article 6.1(a) of the SCM Agreement. In addition, as a result of these specific subsidies, products that benefit from them are priced significantly lower than products that do not benefit from them, thereby impeding the sale of the non-subsidized products in Indonesia. The United States believes that these measures cause serious prejudice to the interests of the United States because their effect is to

displace or impede imports of motor vehicles and motor vehicle parts and components from the United States, and to cause significant price undercutting by the subsidized products compared with products from another Member in Indonesia.

The United States considers that these measures violate the obligations of Indonesia under Articles I:1, III:2, III:4, III:5 and III:7 of the GATT 1994; Article 2 of the Agreement on Trade Related Investment Measures; Article 3, 6, and 28.2 of the SCM Agreement; and Articles 3, 20 and 65.5 of the Agreement on Trade-Related Aspects of Intellectual Property Rights. The United States reserves the right to raise additional factual matters and legal claims during the course of the consultations.

We look forward to receiving your reply to this request and to fixing a mutually acceptable date for consultations.