WORLD TRADE ORGANIZATION

RESTRICTED

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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

South Africa

The following communication, dated 19 April 1995, has been received from the Permanent Mission of South Africa.

Pursuant to Article 5, paragraph 1, of the Agreement on Trade-Related Investment Measures, South Africa hereby notifies the following measures in the agreed format (G/TRIMS/1).

Notification of these measures is made without prejudice to its compatibility with the TRIMs Agreement and/or GATT 1994, and without prejudice to the rights and obligations of South Africa under GATT 1994 and/or the TRIMs Agreement.

I. Motor Vehicle Industry

(i) Description of the Measure and its Main Features

A minimum local content has to be attained by motor vehicle manufacturers to qualify for rebate of excise duties.

1. The measure appears to fall under category 1(a) of the illustrative list of TRIMs inconsistent with the Agreement.

2. The measure is applied and administered by the Government, and is specific to the motor manufacturing and motor components manufacturing industries.

3. The measure is general in nature, and is applicable to passenger motor vehicles, buses (including minibuses) and light and heavy commercial vehicles.

4. The measure is applied pursuant to mandatory legislation - the Customs and Excise Act of 1964 - Rebate Item 609.17 and is also applied to new enterprises and new investments of existing enterprises.

5. Compliance with the measure by the motor industry is

(a) mandatory under domestic law, and

(b) necessary to obtain an advantage.

The advantage is as follows:

(i) An excise duty of 37.5 percent is payable on all vehicles manufactured but this duty is rebated to the extent of 50 percent of the local content value. This means that this duty can be fully rebated once a local content of 75 percent is achieved.

To qualify for the rebate, minimum local content has to be attained by motor vehicle manufacturers. The requirement is set at 55 percent local content, of which 5 percentage points may comprise of exports.

(ii) In order to overcome the problems associated with low volume production (which would be the case if only the internal South African market was catered for) exports are also considered local content in terms of the measure. In order to further encourage exports, motor component manufacturers that export their products may cede such export credits to the motor vehicle manufacturers to raise their local content level.

6. The measure relates to passenger motor vehicles, buses (including minibuses) and light and heavy commercial vehicles.

7. The date of implementation of the measure is 1 March 1989.

8. No provision is made for its phasing down and/or elimination.

9. A copy of an information document by the Department of Trade and Industry is attached (Annexure I).

10. The measure is applied by the central government and is administered by Customs and Excise.

II. Telecommunications Equipment

(i) Description of the Measure and of its Main Features

A local content requirement based on value added to the product during the manufacturing process is a prerequisite for obtaining type approval for the following types of customer premises telecommunication equipment:

* Private Automatic Branch Exchange (PABX)

* Key Telephone Systems (KTS)

* Plan Telephones Systems (PTS)

* Standard (basic) telephone instruments

1. The measure appears to fall under category 1(a) of the illustrative list of TRIMs inconsistent with the Agreement.

2. The TRIM was instituted by the government under discretionary authority.

3. The TRIM applies to all equipment mentioned in (i) that is intended for connection to the public switched telephone network (PSTN).

4. The TRIM has been in place since 1959.

5. The TRIM is enforceable under domestic law. Without compliance the relevant equipment will not be permitted connection to the PSTN.

6. The minimum local content for the products is as follows:

*	Private Automatic Branch Exchanges:	50%
*	Key Telephone Systems:	50%
*	Plan Telephones Systems	50%
*	Standard (basic) telephone instruments:	50%

7. See 4 above.

8. No provision is made for its phasing down and/or elimination.

9. A copy of the relevant regulations is attached.

10. The TRIM is applied and implemented by the Department of Posts and Telecommunications. Copies of the following documentation are also attached for further clarification:

* Suppliers guide to approval and licensing of switching systems and equipment (see section on local content requirements (Annexure II.I).[1]

* Technical specification for switching systems intended for connection to the PSTN (Annexure II.2).[1]

* Official list of licensed switching system suppliers (Annexure II.3).[1]

III. Tea and Coffee

(i) Description of the Measure and its Main Features

The measure entails that coffee or tea packers/blenders/roasters have to purchase predetermined quantities of locally produced coffee or tea at predetermined prices before import permits can be issued for the importation of the balance of domestic demand.

1. The measure appears to fall under category 1(a) of the illustrative list of TRIMs inconsistent with the Agreement.

2. The measure is an administrative arrangement (agreement) between the parties but legislation in the form of the Import and Export Control Act is indirectly used to facilitate implementation of the agreement. All importers (packers/blenders/roasters) of tea and coffee are subject to the measure.

3. The measure applies specifically to the tea and coffee industries.

[1]Copies of these documents are available for inspection by interested delegations in the Secretariat (Intellectual Property and Investment Division, telephone 739 5115).

4. See 2 and 3 above.

5. See explanation under 2. The advantage is that importers are allowed import permits to import the balance of domestic market requirements free of customs duty.

6. The measure relates to the importation of all categories of tea and all categories of coffee, classifiable under tariff headings 09.01 (coffee) and 09.02 (tea).

7. The measure has been in existence since 1981 (tea) and 1988 (coffee).

8. In the case of tea the agreement between the producers and packers/blenders provides for consideration of substitution of the quota arrangement by tariff protection, once parity between the quota and world market prices is within reach. See also 2 above.

9. A copy of the administrative arrangement (agreement) between the parties is attached (Annexure III).[2]

10. The measure is applied by the Department of Trade and Industry and the following Associations in the cases of the various industries:

<u>For Tea</u>:

The South African Tea, Coffee and Chicory Association (SATCCA) representing the blenders/packers.

The Tea Council of South Africa (TCSA) representing the producers.

<u>For Coffee</u>:

The South African Tea, Coffee and Chicory Associations (SATCCA) representing the local growers.

The procedures entail that upon application for an import permit the Department of Trade and Industry obtains confirmation that the requirement as per the agreement to take up predetermined quotas of locally produced coffee or tea have been complied with before an import permit is issued by the Department.

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[2]Available for consultation in the Secretariat (Intellectual Property and Investment Division, telephone 739 5136).

ANNEXURE I

INFORMATION DOCUMENT

NOTIFICATION OF THE AGREEMENT ON TRADE-RELATED INVESTMENT MEASURES:

PHASE VI LOCAL CONTENT PROGRAMME FOR MOTOR VEHICLES

BACKGROUND

1. The local content programme for motor vehicles that preceded the current Phase VI programme was based on a system of measuring local content by mass. This programme had two major deficiencies:

- it lead to a tendency to produce low cost low technology high mass components which were unremunerative to export and were produced in uneconomic volumes so locking the industry into a low volume high cost production structure; and

- a very high import bill as source companies overseas tended to load the price of components they supplied to local producers. As they were supplying largely high technology components which the local industry did not produce this too tended to raise prices as there was no incentive to produce low mass high cost components locally.

PHASE VI PROGRAMME

2. It was, therefore, decided to introduce from 1 March 1989, a new programme which measures local content by value with the express aim of reducing the foreign exchange usage of the motor industry from the then approximately 45 per cent to 25 per cent or less over a period of eight to nine years. The programme is applicable to passenger motor vehicles, buses (including mini-buses) and light and heavy commercial vehicles.

3. The advantages of this approach are that:

  - the use of foreign exchange is to be dramatically reduced; and

  - it encourages the production of high technology (high value added products) for local and export consumption.

4. In order to overcome the problems associated with low volume production (which would be the case if only the internal South African market were catered for) **exports are also considered local content in terms of the Phase VI programme** thus extending the market for South African locally produced automotive components and vehicles by making it possible to use the whole world as the "local" market.

5. The mechanics of the Phase IV programme are as follows:

DUTIES AND REBATES

(a) **A fiscal excise duty** of 2.5 per cent for motor vehicles is levied and this income is a revenue source for the States;

(b) **An excise duty** of 37.5 per cent is payable on all vehicles manufactured but this duty is rebated to the extent or 50 per cent of the local content value. This means that this duty can be fully rebated once a local content of 75 per cent is achieved.

A minimum local content has to be attained by motor vehicle manufacturers. The requirement is set at 55 per cent local content, of which 5 percentage points may comprise of exports.

INCENTIVES FOR LOCAL COMPONENT MANUFACTURERS

6. The Phase VI programme provides strong incentives to the industry to increase its local content and its exports so reducing the RSA's usage of foreign exchange for motor vehicles. **In order to further encourage exports, component manufacturers that export their products may cede such export credits to the motor vehicle manufacturers to raise their local content level.** This system, therefore, provides a built in export incentive for local component manufacturers as well.

ADMINISTRATION

7. The programme is administratively somewhat complex necessitating certification of foreign exchange usage all the way down the line, i.e. suppliers to the motor industry must provide certificates of foreign exchange content in their components to the vehicle manufacturers, and component suppliers must obtain such certificates from their suppliers and so on to origin of the components. The reporting system, while complex, is readily verifiable and is therefore, administratively sound.

GENERAL EXPORT INCENTIVE SCHEME

8. The motor industry is excluded from the incentives available to other industries in terms of the General Export Incentive Scheme (GEIS).

ADJUSTED GUIDELINES

9. The Department has issued (reference EE04/5/II) adjusted guidelines in respect of accounting records to be maintained, returns to be submitted and information to be furnished by participants in the Phase VI programme.

IMPORTED PARTS AND ACCESSORIES

10. Imported spare parts and accessories do not presently form part of the Phase VI programme.

IMPORT OF ASSEMBLED MOTOR VEHICLES

11. Cars, including station wagons, imported in an assembled condition, do not form part of Phase VI and are subject to a customs duty of 70 per cent. Light and heavy goods vehicles, buses and minibuses, which are imported in a built up condition similarly do not form part of Phase VI and are liable to a customs duty of 100 per cent.