

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

Argentina

Addendum

The following communication, dated 21 March 1997, has been received from the Permanent Mission of Argentina.

Introduction

The regime governing the Argentine automotive industry is laid down in Law No. 21,932, of 26 January 1979, the regulations to which are contained in Decree No. 2677 of 20 December 1991, as amended by Decrees Nos. 683 of 6 May 1994, 1179 of 15 July 1994, 1830 of 14 October 1994, 2278 of 23 December 1994 and 33 of 15 January 1996. Apart from the last of the above-mentioned decrees, all of these have already been notified to the World Trade Organization in WTO document G/TRIMS/N/1/ARG/1.

Summary of the changes introduced by decree No. 33/96

Decree No. 33/96<sup>1</sup>, notified herewith, introduces a number of changes in the current regulations. These are as follows.

1. Proportion of domestic content

Two changes have been made in this regard, maintaining and to some extent increasing the flexibility of the regional content requirement that vehicles must fulfil.

Firstly, the form of measurement of content is modified, passing from customs values to f.o.b. values. This change in the criterion used for measurement does not in practice introduce any greater domestic content requirement.

The following formula is used for the calculation of content:

$$\frac{\text{Σ f.o.b. value of imported parts incorporated in the vehicle}}{\text{Pre-tax sale value of the vehicle when sold to the concessionaire}} \times 100$$

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<sup>1</sup>See Annex.

In addition, while the domestic content requirement is initially 60 per cent, a proportion of 50 per cent of regional components is allowed in the formula in the case of new models. This proportion must be met in a period of three years from the start of production.

2. Trade balance

While the requirement of off-setting with exports the imports carried out at reduced import duties is maintained, the following may be considered exports for the purposes of the calculations:

- Exports of new and unused finished or unfinished vehicles, autoparts and dies for automotive production exported by assemblers or their associated firms, or by international marketing firms which distribute the goods produced by the former, computed at a rate of US\$1.20 for each actual export dollar.
- Exports of new and unused autoparts produced by independent autoparts manufacturers who have transferred their export credits to the assembler computed at a rate of US\$1.20 for each actual export dollar, in accordance with the method established by the implementing authority for this purpose.
- The amounts of investments in new and unused capital goods manufactured in the country and intended for use in manufacturing in the country on a permanent basis, carried out by assemblers or by autopart companies which transfer them to assemblers, in accordance with the following schedule:

1996	One and forty hundredths (1.40)
1997	One and twenty hundredths (1.20)
1998	Ninety-five hundredths (0.95)
1999	Seventy hundredths (0.70)
- Increments in exports of capital goods manufacturers in comparison with 1993. This means that the above-mentioned enterprises may transfer to automotive assemblers the right to compute such increments as their own exports under the conditions established by the implementing authority.
- One hundred per cent (100%) of purchases of dies or presses for use in the production of motor vehicles either by themselves or by other autopart manufacturers who transfer them to assemblers in accordance with the method established by the implementing authority for this purpose.
- The increment in the content of locally-produced autoparts compared with the immediately preceding year. The implementing authority shall establish the regulations governing the scope and methods of this operation.

As a corollary to the above points, the conclusion may be drawn that the Decree notified herewith allows an increase in imports originating outside MERCOSUR by modifying the percentage included in the calculation of exports made and by including various investment items that can be computed as exports.

3. Autopart manufacturers

The Decree also includes a system for autopart manufacturers along the same lines as those which the regime lays down for vehicle assemblers.

ANNEX

Buenos Aires, 15 January 1996

*Having regard* to File No. 060-000009/96 of the Registry of the Ministry of the Economy and Public Works and Services, Law 21,932, Decrees Nos. 2,677 dated 20 December 1991, 683 of 6 May 1994, 1,179 dated 15 July 1994, 1,830 of 14 October 1994, 2,278 of 23 December 1994, 523 of 22 September 1995 and 595 of 18 October 1995, and Decision No. 29 of 17 December 1994 of the Council of the Southern Common Market, and

*Whereas:*

The provisions cited in the preceding paragraph established the conditions for reorganizing and regulating the automotive industry.

In accordance with Decision of 29/94 of the Common Market Council, Member States undertook to introduce changes in their respective regimes for the sole purpose of making progress in the establishment of a common policy for the sector.

The scope of Article 2 of Decree 2,278 of 23 December 1994 must be broadened in order to comply fully with the commitments entered into in the context of the Southern Common Market (MERCOSUR).

The purpose of this measure is to implement the agreements reached within MERCOSUR and to some extent to modify the guidelines laid down for the sector.

The Legal Department of the Ministry of the Economy and Public Works and Services has fulfilled its functions in this regard.

This Decree is enacted pursuant to the powers conferred under Article 99 paragraph 1, of the National Constitution and Law No. 21,932.

The President of the Argentine Nation

DECREES:

Article 1. Replace the text of Article 4 of Decree No. 2,677/91 by the following:

"Article 4. Until 31 December 1995 the automotive assemblers covered by this production regime may incorporate in the motor vehicles they produce imported autoparts only up to a limit of forty per cent (40%) and forty-two percent (42%) of the value of the vehicles in Categories A and B, respectively."

As from 1996, assemblers may incorporate in the motor vehicles of Categories A and B which they produce a maximum of imported autoparts in accordance with the following schedule:

Category A:

1996	Forty per cent (40%)
1997	Thirty-seven point five percent (37.50%)
1998	Thirty-five per cent (35%)
1999	Thirty-two point five per cent (32.50%)

Category B:

1996	Forty-two per cent (42%)
1997	Thirty-seven point five per cent (37.50%)
1998	Thirty-five per cent (35%)
1999	Thirty-two point five per cent (32.50%).

Article 2. As from 1996, the maximum imported content within the meaning of Article 4 of Decree 2,677/91 will be calculated using the following methodology:

$$\frac{\text{Σ f.o.b. value of imported parts incorporated in the vehicle}}{\text{Pre-tax sale value of the vehicle when sold to the concessionaire}} \times 100$$

Article 3. The text of Article 5 of Decree 2,677/91, as amended by Article 1 of Decree 523/95, is amended as follows:

"Article 5. Until 31 December 1995, assemblers may average the imported content among the vehicles they produce within the same category. As from 1996 and until 31 December 1999, the imported content rates will apply for each specific model.

In the case of the launch of new models, a three-year period will be allowed for their gradual inclusion under the regime, with a maximum percentage of fifty per cent (50%) on average over that period, at the end of which they must comply with the percentage laid down in Article 4 of Decree No. 2,677/91."

Article 4. As from 1996 the exports to be included in the calculation of the trade balance within the meaning of Article 8 of Decree No. 2,677/91 may consist of:

- (a) Exports of new and unused finished or unfinished vehicles, autoparts and dies for motor vehicle production exported by assemblers, or their associated firms, or by international marketing companies that distribute the goods produced by the former, at a rate of one United States dollar and twenty cents (US\$1.20) for each dollar of actual exports.
- (b) Exports of new and unused autoparts by independent autopart manufacturers who have transferred their export credits to an assembler, calculated at a rate of one United States dollar and twenty cents (US\$1.20) for each dollar of actual exports, in accordance with the method established by the implementing authority for this purpose.
- (c) The amounts of investments in new and unused capital goods manufactured in the country intended for use in manufacturing in the country on a permanent basis, carried out by assemblers or by autopart manufacturers which transfer them to assemblers, in accordance with the following schedule:
 

During 1996	One and forty hundredths (1.40)
During 1997	One and twenty hundredths (1.20)
During 1998	Ninety-five hundredths (0.95)
During 1999	Seventy hundredths (0.70)
- (d) Increments in exports of capital goods manufacturers, in comparison with 1993. This means that the above-mentioned enterprises may transfer to automotive assemblers the right to compute such increments as their own exports under the conditions established by the implementing authorities.

- (e) One hundred per cent (100%) of purchases of dies or presses for use in the production of motor vehicles either by themselves or by other autopart manufacturers who transfer them to assemblers in accordance with the method established by the implementing authority for this purpose.
- (f) The increment in the content of locally-produced autoparts compared with the immediately preceding year. The implementing authority shall establish the regulations governing the scope and methods of this operation.

Exports may include elements imported under the existing temporary entry systems, in which case the values relating to the temporary imports shall not be included in the computation of the exports for offsetting purposes.

Article 5. The definition of a domestic sub-assembly or assembly established in Annex I of Decree No. 2,677/91 is replaced by the following definition:

"Domestic sub-assembly or assembly: a sub-assembly or assembly is considered entirely domestic when the value of imported components incorporated in it does not exceed the proportion indicated below for each period:

1996	Forty per cent (40%)
1997	Thirty-seven point five per cent (37.50%)
1998	Thirty-five per cent (35%)
1999	Thirty-two point five per cent (32.50%)

The imported content will be measured using the following methodology:

$$\frac{\text{Σ f.o.b. value of imported autoparts incorporated in the sub-assembly or assembly}}{\text{Pre-tax value of the autopart when sold to the assembler}} \times 100$$

A sub-assembly or assembly produced locally under a national manufacturing regime authorised by the implementing authority will also be considered entirely domestic. Such regimes must in any case provide for complying with the above-mentioned percentage within a maximum period of three (3) years."

Article 6. Imports of autoparts intended for production (excluding spare parts) imported by independent autopart manufacturers having a countertrade programme approved by the implementing authority, provided they are new goods and are offset by the same amount of exports of new and unused domestic autoparts exported by themselves or by other independent autopart manufacturers which transfer them to the former, shall pay an import duty of two per cent (2%) when coming from non-member countries of MERCOSUR or zero per cent (0%) when coming from MERCOSUR member countries.

Article 7. Exports and imports within the meaning of Article 6 of this Decree shall be calculated at f.o.b. values.

Article 8. Exports of autoparts, whether or not for processing abroad, which re-enter the country in the form of a finished product or parts for consumption and not for production process purposes shall not be taken into account for the purposes of the countertrade provided for in Article 6. Exports may include elements imported under existing temporary entry systems, in which case the values corresponding to the temporary imports shall not be included in the calculation of exports.

Article 9. The following may also be considered exports within the meaning of Article 6:

- (a) The amounts of investments carried out by autopart manufacturers in new and unused locally-produced capital goods intended for use in manufacturing within the country on a permanent basis in accordance with the following schedule:

During 1996	One and forty hundredths (1.40)
During 1997	One and twenty hundredths (1.20)
During 1998	Ninety-five hundredths (0.95)
During 1999	Seventy hundredths (0.70)

- (b) One hundred per cent (100%) of purchases of dies or presses for use in the production of autoparts.

Article 10. For the purposes of Article 6, exports of autoparts shall be calculated by multiplying their f.o.b. value by a factor of one point twenty (1.20).

Article 11. Imports of autoparts shall be considered offset by exports for the purposes of Article 6 provided the latter are part of the normal production line of the applicant company, whether manufactured by that company or by its suppliers, and also meet the minimum local content requirements laid down in Annex I of Decree 2,677/91 as amended by Article 5 of the present Decree.

Article 12. As from 1 January 1995, autoparts originating in MERCOSUR member countries imported by autopart manufacturers and intended for their production or that of motor vehicle assemblers (excluding spare parts), provided they are new goods and are offset in accordance with Article 6 of this Decree, and not subject to any bilateral countertrade trade requirement, shall be considered domestic for the purposes of the measurement of maximum imported content provided for in Annex I of Decree 2,677/91 as amended by Article 5 of this Decree.

Article 13. The amount of the imports of independent autopart manufacturers which adopt the countertrade system provided for in Article 6 of this Decree shall not be included in the calculation of the trade balance of the automotive assemblers based in the country as provided for in Article 12 of Decree 2,677/91, as amended by Article 2 of Decree 1,179/94.

Article 14. Enterprises interested in being included in the countertrade programme provided for in Article 6 shall submit an application to this effect in accordance with the requirements laid down by the implementing authority for this purpose.

Article 15. Enterprises interested in requesting domestic content and manufacturing programmes in accordance with Article 5 of this Decree shall include in their applications plans for industrial development and investments in the country so as to ensure the technical and economic feasibility of progressively achieving the local-content requirements as well as any other requirements as may be established by the implementing authority.

Article 16. Enterprises which receive the benefits of the programmes provided for in Article 5 of this Decree but do not comply with the domestic content requirement shall pay a fine equal to one hundred per cent (100%) of the shortfall in local content levels.

Article 17. Independent autopart manufacturers who transfer their export credits in accordance with Article 4 of this Decree cannot simultaneously use them for the purposes laid down in Article 6 of this Decree.

Article 18. Independent autopart manufacturers having an Industrial Specialization Programme under Decree 2,641 of 29 December 1992 and supplementary or clarificatory provisions thereto may

not count towards that programme the exports used for obtaining the benefits provided for in Articles 4 and 6 of this Decree.

Article 19. Independent autopart manufacturers shall facilitate any inspections or verifications ordered by the implementing authority and provide that authority under oath, within the time-limits it establishes, any information requested concerning any matter relating to the provisions of the automotive regime.

Article 20. This decree shall enter into force on the day following its publication in the Official Journal.

Article 21. For communication, publication, transmittal to the National Registry Office and filing.

DECREE No. 33

(Signed) José Caro Figueroa

(Signed) Dr. Carlos N. Corach  
Acting Chief of Cabinet