

# WORLD TRADE ORGANIZATION

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**Committee on Trade-Related Investment Measures**

Original: English

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

Malaysia

Revision

The following communication, dated 14 March 1996, has been received from the Permanent Mission of Malaysia.

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With reference to our earlier notification under this Article, I am pleased to submit herewith Malaysia's revised notification pursuant to Article 5.1 of the TRIMs Agreement.

MALAYSIA'S REVISED NOTIFICATION PURSUANT TO ARTICLE 5.1  
OF THE WTO AGREEMENT ON TRADE-RELATED INVESTMENT  
MEASURES (TRIMS)

Pursuant to Article 5.1 of the Agreement on Trade-Related Investment Measures (TRIMs), Malaysia hereby notifies the Council for Trade in Goods, World Trade Organization (WTO) her TRIMs as follows:

1. Local Content Requirement Related to Investment Incentives

1.1 Main Features

Local Content Requirement is generally imposed on manufacturing projects which are granted Pioneer Status or Investment Tax Allowance incentive under the Promotion of Investments Act 1986 on the basis of local material content, to manufacture promoted products gazetted from time to time under the same Act.

1.2 Category in the Illustrative List

This TRIM falls under Category 1(a) of the Illustrative List of the TRIMs Agreement.

1.3 Authority of Application

This TRIM is applied through administrative measures. Malaysia has no local content laws or regulations. The Government encourages the use of local materials in the manufacturing sector and the use of local content is taken into account in the granting of investment incentives provided by the Government. The local content requirement is enforceable during the period that the company enjoys the benefit of the incentive.

1.4 Criteria for Determining Enterprises

This TRIM is applicable to manufacturing projects proposed by either foreign or local investors. Manufacturing projects, if granted the incentive on the basis of local material or local component usage would be imposed a requirement to attain the specified percentage level of local content in order to enjoy the incentive. The requirement is contained in the approval letter granting the incentive.

1.5 Area of Application

This TRIM is applicable to new projects proposed by new enterprises or new investment projects proposed by existing enterprises provided that the existing enterprises had never enjoyed such incentives before.

1.6 Nature of Advantage

The advantage of the incentives is in the form of a tax concession of either a Pioneer Status or an Investment Tax Allowance. A company given a Pioneer Status will be granted an exemption of 70 per cent on its statutory income from the payment of income tax. The period of tax exemption is five (5) years, commencing from the production date as determined by the Minister of International Trade and Industry. A company that opts for an Investment Tax Allowance (ITA) would be given an allowance of 60 per cent of its qualifying capital expenditure incurred within five (5)

years from the effective date of the incentive. This allowance can be set off against 70 per cent of the statutory income in the year of assessment. Unutilized allowance can be carried forward. Thirty per cent (30%) of the company's statutory income will be taxed.

1.7 TRIM Related to Specific Products

This TRIM is applicable to a list of promoted products gazetted under the Promotion of Investments Act, 1986.

1.8 Date of Implementation

This TRIM was introduced in 1991. There is no modification of this TRIM effected within 180 days prior to the entry into force of the WTO Agreement.

1.9 Provision for Phasing-Down/Elimination

This TRIM is applied under administrative measures and there is no provision for its phasing-down or elimination.

1.10 Domestic Law, Regulation or Administrative Guideline

There is no domestic law or regulation under which this TRIM is applied. Local content usage is only one of the criteria considered in the granting of investment incentives. Other criteria are the level of value-added, level of technology used, and prospects for industrial linkage creation. A company which desires to enjoy the incentive must fulfil two (2) out of the four (4) criteria.

1.11 Name of Implementing Agency

The implementing agency is Malaysian Industrial Development Authority (MIDA), an agency (statutory body) under the Ministry of International Trade and Industry (MITI).

1.12 General Information on the Local Content Requirement Related to Investment Incentives

The objective of this TRIM is to develop industrial projects including supporting industries, to strengthen industrial structure and enhance linkages between small- and medium-scale industries and larger firms.

2. Local Content Policy on Motor Vehicles

2.1 Description and Main Features

Local Material Content Policy on Motor Vehicles applies to motorcycles, passenger cars, and commercial vehicles. The local content programme on motorcycles was imposed whereby assemblers were required to achieve 60 per cent local content. The motorcycle industry has already exceeded this level of local content. Similarly, the local content programme for passenger cars also provides a maximum target of local content of up to 60 per cent. Currently, the passenger vehicles industry has achieved a local content level of only about 30 per cent. The level of local content is determined on a percentage point system based on the value of the components to the value of the vehicle. For commercial vehicles up to 2,500-ton gross vehicle weight, the target local

content is 45 per cent and the achieved local content is currently at only 20 per cent.

2.2 The Category in the Illustrative List

This TRIM falls under Category 1(a) of the Illustrative list of the TRIMs Agreement.

2.3 Authority of Application

This TRIM is applied through administrative measures.

2.4 Criteria of Determining Enterprises

This TRIM is applicable to companies that produce or assemble motorcycles, passenger cars and commercial vehicles.

2.5 Area of Application

This TRIM applies to both new enterprises or existing companies in the motor vehicles industry.

2.6 Nature of Advantage

It is just a condition and there is no tax or financial advantage involved.

2.7 Relation to Specific Products

This TRIM relates to motorcycles, passenger cars and commercial vehicles.

2.8 Date of Implementation and Modification

This Local Content Programme on motorcycles was implemented in 1981 whilst similar local content programme for passenger cars and commercial vehicles was implemented in 1990. There is no modification of this TRIM effected within 180 days prior to the entry into force of the WTO Agreement.

2.9 Provision for Phasing-Down/Elimination

This TRIM is applied through administrative measure and there is no provision for its phasing-down or elimination.

2.10 Name of Implementing Agency

The implementing agency is the Malaysian Industrial Development Authority (MIDA), an agency under the Ministry of International Trade and Industry (MITI).

2.11 General Information on the Local Content Policy

The rationale for the Local Content Programme is to achieve upgrading of engineering and technical skills in the domestic component parts industry.