**INDIA – AUTOS**

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1. **MEASURE AND PRODUCT AT ISSUE**

- **Measure at issue:** India's (i) indigenization (local content) requirement; and (ii) trade balancing requirement (exports value = imports value) imposed on its automotive sector.  

- **Product at issue:** Cars and their components.

2. **SUMMARY OF KEY PANEL/AB FINDINGS**

   **Indigenization requirement**

   - **GATT Art. III:4 (national treatment – domestic laws and regulations):** The Panel concluded that the measure violated Art. III:4, as the indigenization requirement modified the conditions of competition in the Indian market "to the detriment of imported car parts and components".

   **Trade balancing requirement**

   - **GATT Art. XI:1 (prohibition on quantitative restrictions):** Having found that "any form of limitation imposed on, or in relation to importation constitutes a restriction on importation within the meaning of Art. XI", the Panel found that India's trade balancing requirement, which limited the amount of imports in relation to an export commitment, acted as a restriction on importation within the meaning of Art. XI:1, and thus violated Art. XI:1. The Panel also found that India failed to make a prima facie case that this requirement was justified under the balance-of-payments provisions of Art. XVIII:B.

   - **GATT Art. III:4 (national treatment – domestic laws and regulations):** As for the aspect of the trade balancing obligations, which imposed on the purchasers of imported components on the Indian market an additional obligation to export cars or components, the Panel found that the measure created a “disincentive” to the purchase of imported products and, thus, accorded less favourable treatment to imported products than to like domestic products inconsistently with Art. III:4.

3. **OTHER ISSUES**

   - **Evolution of the measures:** As regards India's claim that since the import regime that gave rise to the two requirements had already expired, and thus the Panel need not recommend to the DSB that India should bring its measures into conformity, the Panel stated that where a measure has been withdrawn so as to affect the continued relevance of the Panel's findings of violation, it is understandable for a panel to make no recommendation at all. However, the Panel found the situation in this case different, as the expiration of the import regime subsequent to the Panel's establishment did not affect the continued application of the measures. As such, the Panel recommended that the DSB request that India bring its measures into conformity with its WTO obligations.

   - **Scope of GATT Arts. III and XI:** Regarding the scope of measures under (and thus the relationship between) Arts. III and XI, the Panel noted that it could not be excluded that different aspects of a measure may affect the competitive opportunities of imports in different ways, making them fall within the scope of either Art. III or XI or there may be potential for overlap between the two provisions.

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1 India – Measures Affecting the Automotive Sector
2 India withdrew its appeal prior to the oral hearing. For this reason the Appellate Body issued a short report, which did not address the substantive legal issues, and which adopted the DSB together with the Panel Report.
3 Both requirements were contained in Public Notice No. 60 and the MOUs signed between Indian government and car manufacturers.

Other issues addressed: burden of proof (GATT Art. XVIII:B); clarification of claims; terms of reference (measure at issue); res judicata; competence of panel (bilateral settlement); due process and good faith; unnecessary litigation; order of examination of claims under Arts. III and XI.