

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF BRAZIL CONCERNING TRADE MEASURES IN THE AUTOMOTIVE SECTOR

The Government of the United States and the Government of Brazil have agreed as follows:

In conformity with Brazilian Law 9449, currently applied benefits for vehicle-assembling companies and manufacturers of products listed in paragraph 1 of Article 1 of that law shall expire on December 31, 1999. In no case shall the ratios and limits established pursuant to Article 2 of Law 9449, the nationalization index established pursuant to Article 7 of that Law, and the penalties provided for by Article 13 of that Law apply later than December 31, 1999, except in respect of provisions which vehicle-assembling companies are entitled to comply with pursuant to the terms and conditions of their entry agreements under Law 9449.

As of today's date, no existing obligations and penalties applicable to manufacturers of the products listed in item (h) of paragraph 1 of Article 1 of Law 9449 extend beyond December 31, 1999. In the case of any manufacturer of such products who enters into agreements under Law 9449 prior to December 31, 1998, the obligations and penalties pursuant to that Law shall apply no later than the end of the calendar year following the year in which the manufacturer initiates production of the products covered by such agreements. In no case shall such obligations and penalties apply beyond December 31, 2000, except for follow-up reporting of compliance with the requirements of the entry agreements under Law 9449 and collection of any penalties due.

No applications for the regime contained in Law 9449 will be accepted from the manufacturers of the products referred to in the above paragraph after December 31, 1998 and from vehicle-assembling companies after June 30, 1998.

As of January 1, 1998, for purposes of calculating "additional exports," bonuses given for imports of new capital equipment incorporated into permanent assets of companies with agreements under Law 9449 will be equal to the bonuses given to purchases of domestically produced capital goods.

As from July 1, 1998 until June 30, 1999, the ration of "net exports" to imports contained in the trade balancing requirements in Article 2 of Law 9449 will be 1:1.02. From July 1 to December 31, 1999, it will be 1:1.03.

From January 1, 2000, the automotive sector will be fully incorporated into the Mercosul Customs Union through the elimination of substantially all trade barriers among the four Member States; the absence of measures within the meaning of the WTO Agreement on Trade-Related Investment Measures in the automotive sectors; and, in conformity with Mercosul Council Decision 29/94, the application of a common external tariff.

If any WTO Member requests the establishment of a WTO dispute settlement panel to review measures under Brazil's automotive regime, the parties to this agreement agree to consult with a view to reexamining the terms of this agreement.

Done in duplicate in the English and Portuguese languages at Washington this 16th day of March, 1998, each text being equally authoritative.

Charlene Barshefsky
United States Trade Representative
For the Government of the United States

Luiz Felipe Palmeira Lampreia
Minister of Foreign Affairs
For the Government of Brazil