

Taiwan Agreement On Export Performance Requirements

August 21, 1986

AIT-B-561

Mr. Robert Shiching Hsiao

Chief, Business Division

Coordination Council for

North American Affairs

133 Po Ai Road

Taipei

Dear Mr. Hsiao:

During the August 4-8 AIT/CCNAA Trade Consultations held in Washington, the two sides had an opportunity to discuss the Section 307 case concerning export performance requirements in Taiwan's automotive sector.

AIT drafted a proposed exchange of letters containing the necessary elements to resolve the case, and provided these drafts to CCNAA (Vincent Siew) in Washington, but no response was received.

Enclosed is a revised, slightly modified, set of letters. Please transmit these letters to Board of Foreign Trade Director General Siew and other relevant officials. We would appreciate your reaction to them.

Also, we note that CCNAA has not formally responded to the supplemental Washington questionnaire on this issue.

We greatly appreciate CCNAA's continuing assistance with these matters.

Sincerely,

Philip T. Lincoln, Jr.

Chief

Economic/Commercial Section

Enclosures: As stated

Begin text of CCNAA letter to AIT:

Dear Mr. Dean:

I have the honor to refer to recent discussions concerning the use by the authorities on Taiwan of export performance requirements affecting investment in the automotive sector. This letter sets forth measures that the Taiwan authorities have decided to undertake concerning such requirements and their use.

Effective on the date of this letter, the authorities on Taiwan will not tie or condition any future or pending investment approval for initial or expanded direct foreign investment in the automotive sector on formal or informal commitments to export goods produced in Taiwan.

No later than January 1, 1987, the authorities on Taiwan will remove all export performance requirements applying to any investment in the automotive sector which has been approved on or before the date of this letter, and will inform the investors concerned of the withdrawal of all export performance requirements. The removal of the export performance requirement will not in any way result in the modification of the remaining terms of the investment approvals applying to the investments concerned.

The Coordination Council for North American Affairs will consult with the American Institute in Taiwan concerning any matter related to the undertakings in this letter.

For the purposes of this letter, the "automotive sector" shall include passenger automobiles, trucks, utility vehicles, and buses, and shall also include automotive parts for the foregoing, whether traded as original equipment (OEM) Or replacement parts. "Investment approval" includes any administrative, regulatory or legislative action necessary for an investor to establish, expand, maintain, hold equity positions, remit foreign exchange (including profits), participate in Taiwan procurement programs, or otherwise conduct its business in Taiwan. "Export performance requirements" include export performance requirements concerning the automotive sector (directly applicable to vehicles or which permit export of parts to satisfy vehicle export performance requirements) and provisions allowing the satisfaction of local content requirements through automotive sector exports.

It is our understanding that, in consideration of the implementation of the above actions by the authorities on Taiwan, the American Institute in Taiwan will recommend to the USTR that it terminate the investigation under Section 307 of the Trade and Tariff Act of 1984 concerning export performance requirements in the automotive sector in Taiwan.

Sincerely,

End Text of CCNAA letter to AIT.

Begin text of AIT letter to CCNAA:

Dear Mr. Chien:

I have the honor to acknowledge receipt of your letter of today's date, which reads as follows:

Dear Mr. Dean:

Full text repeated

Sincerely,

CCNAA

Based on the undertakings in your letter, and based on the implementation of these undertakings by the dates specified, I am pleased to inform you that effective today the United States Trade Representative will terminate the investigation under Section 307 of the Trade and Tariff Act of 1984 concerning export performance requirements in the automotive sector in Taiwan.

Sincerely,

AIT

End text of AIT letter to CCNAA

MEMORANDUM ON LOCAL CONTENT REQUIREMENTS

The CCNNA's letter to AIT proposed by AIT on August 21, 1986, suggests that the provisions allowing the satisfaction of local content requirement through automotive exports should also be abolished. The ROC Government does not believe that this issue should be dealt with in the context of the 307 investigation on the following grounds:

1)The issue of local content requirement is different from the export performance requirements. The local content requirements are usually imposed on products which have an import ban. Currently, there is an import ban against Japanese automotives. The local content requirement is necessary to prevent bypassing of the import ban by importing automotive parts for assembly in Taiwan. Furthermore, the tariff rate on parts are usually lower than those for the assembled products. If there is no local,content requirement, those who import parts for assembly would actually enjoy lower tariffs than those who are importing the assembled products. This is also an inequity which the local content requirement is designed to remedy.

2) The provisions allowing the satisfaction of local content requirements through automotive export do not impose additional export requirements. It is a privilege which the automotive firms may choose to exercise if they are unable to meet the local content requirements.

3) In the past, local content requirements had been imposed on VTRs and color televisions. These requirements were removed at the time when the import ban on these products were lifted. The local content requirement on automotives will also be removed when the government decides to lift the ban on the import of Japanese automotives.

MEMORANDUM ON THE DEFINITIONS

Proposed by AIT in its letter on August 21, 1986

We feel that the various definitions offered in para. 5 of the letter is unnecessary for the following reasons:

1. Defining "automotive sector" to include automotive parts will cause confusion in that. These two are treated differently for many different purposes under the ROC's laws and regulations. Furthermore, as far as the export performance requirements are concerned, the automotive part sector is not affected by such requirements. The AIDP specifically provides that Ahe export performance requirements do not apply to automotive parts.
2. "Investment approval" is a well defined term under the ROC laws and regulations, which refers to the approval for a foreign investment application granted by the Investment Commission of the Ministry of Economic Affairs. The export performance. requirements are relevent only to such approval. The broad definitionoffered in the AIT's proposed letter may further confuse the issue.
3. The local content requirements should be dealt with separate and apart from the export performance requirement as have in a separate memorandum.

TANC offers these agreements electronically as a public service for general reference. Every effort has been made to ensure that the text presented is complete and accurate. However, copies needed for legal purposes should be obtained from official archives maintained by the appropriate agency.