

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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**COUNCIL
10 November 1994**

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**POLAND - IMPORT REGIME FOR AUTOMOBILES ORIGINATING
IN THE EUROPEAN COMMUNITIES**

Recourse to Article XXIII:2 by India

The following communication dated 27 October 1994 has been received from the Permanent Mission of India with the request that it be circulated to the contracting parties and that the matter be inscribed on the Agenda of the Council meeting on 10 November 1994.

In its communication dated 20 May 1993 addressed to the Permanent Mission of Poland in Geneva¹, India conveyed its request for consultations under Article XXII:1 of the General Agreement on Tariffs and Trade concerning the modifications introduced by Poland to the structure of its tariff on automobiles on 1 January 1992 and the duty-free quota provided to the European Communities for automobiles in terms of the provisions of the Interim Agreement on Trade Related Matters which was signed by Poland and the European Communities on 16 December 1991 and which entered into force on 1 March 1992.

In April 1991, an Indian company called Maruti Udyog Limited entered into an agreement with a Polish company called Elektrim for the sale of 13,500 automobiles of 800cc from India to Poland. On 1 January 1992, Poland increased the import duty on automobiles from 15 per cent of f.o.b. price or US\$ 800 per car (whichever is higher) to 35 per cent of f.o.b. price or US\$ 1,500 per car (whichever is higher). The Interim Agreement on Trade Related Matters signed between Poland and the European Communities in December 1991 and which entered into force on 1 March 1992 provided a duty-free quota of 30,000 automobiles per annum from the European Communities to Poland. As a result of these actions by Poland, Indian exports of automobiles to Poland which were 4,568 units in 1991-92 reduced to 1,000 units in 1992-93 and further to 504 units in 1993-94. No exports have taken place during the current year.

After the request made by India for consultations under Article XXII:1 in May 1993, India and Poland began formal consultations from 22 June 1993. Since then, India and Poland have been in touch at various official levels to find a mutually satisfactory solution to the matter. Having exhausted all bilateral channels to find a satisfactory solution to this matter, India now requests the establishment of a Panel under Article XXIII:2 of the General Agreement on Tariffs and Trade and in accordance with the procedures established in the 1989 Decision on Improvements to the GATT Dispute Settlement Rules and Procedures (BISD 36S/61).

¹Circulated in document DS40/1 dated 28 May 1993.

The purpose of the Panel would be to examine the incompatibility of Poland's actions related to its import régime for automobiles with the provisions of the General Agreement, including, in particular, Article I; the inconsistency of Poland's actions with, and its lack of justification under Article XXIV; the nullification and impairment of the benefits derived by India under the General Agreement and any other effect that Poland's actions may have on India's automobile exports to Poland.

India wishes to make clear that this request is without prejudice to its rights under the future World Trade Organization.