WTO Reviews Local Content Requirements Favoring Domestic Over Imported Goods

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The World Trade Organization considered this week a trade barrier that the U.S. and others have been increasingly vocal in protesting and that is starting to be addressed in bilateral and regional trade agreements. According to a WTO press release, the WTO's Committee on Trade-Related Investment Measures reviewed 14 complaints about investment measures in Indonesia, Russia, India, China and other countries that allegedly favor domestic over imported products through local content requirements.

**Indonesia.** The U.S. expressed for the first time concerns about Indonesia's draft regulations requiring products using the 4G LTE spectrum (including smart phones) that are sold on the Indonesian market to meet local content requirements, which the U.S. said it would be significantly easier for Indonesian-owned companies to do than foreign-owned companies. The U.S., supported by Japan and Canada, said that by requiring companies to manufacture phone equipment locally Indonesia would in effect be stealing investments from its smaller neighbors.

Indonesia responded that its plan is to move up the value chain of manufactured products by requiring companies investing in Indonesia to develop domestic manufacturing. This plan will apply to the 4G/LTE sector equally and non-discriminatorily between domestic and foreign investors, in line with WTO provisions.

The committee also discussed four Indonesian measures that had been raised in previous meetings: measures addressing local content in investment in the telecommunications sector; local content provisions in the mining, oil and gas sector; the newly adopted Industry Law and Trade Law; and minimum local product requirements in the modern retail sector.

**Russia.** The U.S. said there appears to be a growing emphasis on local content requirements and import substitution policies in Russia, noting that Russia's recent “Anti-Crisis Plan” has taken steps to implement the import substitution strategy for medical devices and that Russia appears to be preparing to expand these requirements to state-owned enterprises. The European Union added that there is a worrying trend in Russia for local content requirements in procurement covering medical devices, textiles,
machinery, vehicles and software.

The EU and Japan expressed new concerns about Russia’s local content requirements for the automotive sector and Ukraine said it is undertaking a countervailing duty investigation on Russian automobiles. Russia said that under its protocol of accession to the WTO its subsidies to industrial assembly benefit from a transition period until July 1, 2018, and that the subsidies are being given to local automobile assemblers controlled by foreign investors.

**India.** The EU raised new concerns about India’s local content requirements in solar power generation projects based on its belief that Indian companies do not yet have the capacity to provide these types of equipment. India responded that the measure is consistent with the GATT and the TRIMs Agreement. The EU also reiterated concerns about certain Indian preferences to domestically manufactured electronic goods and telecommunications products.

**China.** The U.S. and Japan expressed for the first time concerns about a recent measure by China that they claimed imposed local content requirements on information and telecommunications equipment used by the banking sector. The U.S. emphasized that it is not questioning the right of WTO members to take steps to improve cybersecurity but is concerned about measures that would severely limit access to China’s banking sector for many foreign ICT products.

China stressed the necessity of protecting security in the banking sector, adding that many countries are doing the same thing, but said it is reviewing the measure in the light of views it has received. Press sources subsequently reported that the rule has been temporarily suspended and will be re-issued after being amended.

**Nigeria.** The EU and the U.S. again raised concerns about certain measures taken by Nigeria for the development of Nigerian content in the oil and gas industry.

**Turkey.** The EU raised new concerns about Turkey’s local content requirements in electricity generation and asked for an explanation of how they would be in compliance with WTO rules. Turkey said that its goal is to reduce import dependency in the energy sector and that it does not aim to discriminate but rather to develop renewable energy, adding that investors are not required to buy local content.

**U.S.** India said answers to its questions about U.S. local content requirements in some renewable energy programs were still inadequate, after which the U.S. provided detailed information on the programs by various state and municipal entities in question.

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