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Council for Trade in Goods
Committee on Safeguards

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**NOTIFICATION FROM JAPAN TO THE COUNCIL FOR TRADE IN GOODS
AND THE COMMITTEE ON SAFEGUARDS**

UKRAINE

(Motor cars)

The following communication, dated 11 June 2013, is being circulated at the request of the Delegation of Japan.

With reference to the notifications (G/SG/N/8/UKR/3-G/SG/N/10/UKR/3-G/SG/N/11/UKR/1) submitted by Ukraine, the request for consultations under Article 12.3 of the WTO Agreement on Safeguards ("the Safeguards Agreement") from Japan (G/SG/108), and the subsequent reply to this request from Ukraine (G/SG/108/Suppl.1 and its corrigendum), Japan hereby notifies the state of play of its request for the consultations and its position on this issue to the Council for Trade in Goods ("the Goods Council") and the Committee on Safeguards ("the Safeguards Committee").

Japan recalls that, according to Article 12.3 of the Safeguards Agreement, a Member "proposing to apply" a safeguard measure "shall provide adequate opportunity for prior consultations" with those Members affected by the "proposed" measure. Article 12.3 further states that Article 12.3 consultations shall be provided "with a view to reviewing the information" provided under Article 12.2 of the Safeguards Agreement, which obligates the Member "proposing" to apply a measure to provide all pertinent information in making the WTO notifications under Article 12.1(b) and 12.1(c).

We hereby notify the Goods Council and the Safeguards Committee that no consultations were held between Japan and Ukraine in a manner to fulfil the conditions set forth in Article 12.3 of the Safeguards Agreement before Ukraine started to impose additional duties on motor cars on 13 April 2013.

I. RELEVANT FACTS

1. Upon receiving the notification by Ukraine under Article 12.1(b) and (c), circulated on 25 March 2013, Japan requested, on 3 April 2013, Ukraine to hold consultations pursuant to Article 12.3 of the Safeguards Agreement. Japan's request was circulated as a WTO document, G/SG/108. No response, however, was made by Ukraine before it started to impose additional duties on motor cars on 13 April 2013.

2. Ukraine's response was only received on 16 April, as the WTO document, G/SG/108/Suppl.1, after its imposition of additional duties on motor cars. In that document, Ukraine suggested to hold consultations "at the Ministry's premise in Kiev/Ukraine during April 2013."

3. On 20 April 2013, Japan requested in a letter to the Ukraine that the consultations be held in Geneva. Subsequently, on 23 April 2013, at the regular meeting of the Safeguards Committee,

Japan reiterated its request to hold Article 12.3 consultations in Geneva jointly with other requesting Members.

4. Ukraine responded to Japan's aforementioned letter by a note verbale dated 4 June 2013. Therein, Ukraine reiterated its suggestion to hold consultations in Kiev without specifying the date.

5. No consultations required under Article 12.3 have been held by Ukraine to date.

II. JAPAN'S POSITION ON UKRAINE'S IMPOSITION OF ADDITIONAL DUTIES ON MOTOR CARS

1. Ukraine started to impose additional duties on motor cars without meeting the stringent requirements set forth in the Safeguards Agreement. In Ukraine's note verbale dated 4 June 2013, Ukraine asserts that it "has provided the adequate opportunity for prior consultations with Japan as stated in Article 12.3 of the [Safeguards] Agreement". Japan disagrees with this. In spite of our repeated requests to hold Article 12.3 consultations, there have been no consultations within the meaning of Article 12.3 of the Safeguards Agreements to date. Japan does not understand that Ukraine has provided "adequate opportunity for prior consultations" with Japan.

2. If Ukraine wishes to take a safeguard measure on motor cars, it must provide adequate opportunity for "prior" consultations with Japan, which has a substantial interest as an exporter of motor cars to Ukraine. Without providing such an opportunity, Ukraine started to impose additional duties on motor cars on 13 April, acting as if that imposition of additional duties were a safeguard measure under the Safeguards Agreement. This unilateral imposition of additional duties is clearly inconsistent with the relevant WTO agreements. Japan reiterates its request to Ukraine that it immediately terminate this unjustifiable imposition of additional duties. In the event of Ukraine's failure to do so, Japan will consider taking necessary steps under the WTO agreements.
