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## RUSSIAN FEDERATION – RECYCLING FEE ON MOTOR VEHICLES

### REQUEST FOR CONSULTATIONS BY JAPAN

The following communication, dated 24 July 2013, from the delegation of Japan to the delegation of the Russian Federation and to the Chairperson of the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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My authorities have instructed me to request consultations with the Government of the Russian Federation ("Russia") pursuant to Articles 1 and Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), Article 8 of the *Agreement on Trade-Related Investment Measures* ("TRIMs Agreement") and Article 14 of the *Agreement on Technical Barriers to Trade* ("TBT Agreement") with respect to the Russia's measures relating to a charge, the so called "recycling fee", imposed on motor vehicles.

Through the measures at issue, Russia imposes a recycling fee on each vehicle imported into Russia or produced/manufactured on the territory of Russia. Russia exempts from the recycling fee the vehicles manufactured or produced by companies that have committed to ensure subsequent safe handling of wastes. However, this exemption is only available to vehicles manufactured by companies which are legal entities registered in Russia and which have undertaken to produce their vehicles in Russia according to one of the modes involving certain specific manufacturing operations in the territory of Russia, Belarus or Kazakhstan. Therefore, the measures at issue, through these conditions, either taken together or separately, discriminate between imported vehicles and the like domestic products. In addition, they favour the purchase of parts/components produced in Russia, Belarus or Kazakhstan over parts/components produced and imported from other WTO Members, including Japan.

Furthermore, the measures at issue have investment objectives and investment features since they encourage the development of local manufacturing by conditioning the benefit of the exemption from the recycling fee on local production requirements and the nationality of the producer.

Through the measures at issue, Russia also exempts from the recycling fee the vehicles imported from Belarus and Kazakhstan under certain conditions. This exemption is only granted to vehicles imported from Belarus and Kazakhstan and is not accorded immediately and unconditionally to the vehicles imported from other countries, including Japan.

Moreover, the recycling fee is imposed on the vehicles at rates that differ sharply depending on whether the vehicles are "new" or "produced more than 3 years ago", thereby treating imported vehicles less favourably than domestically produced vehicles.

Russia imposes these measures *inter alia* through the legal instruments listed below, as well as any amendments, revisions, replacement measures, implementing measures and any other related measures:

- Federal Law No 128-FZ of 28 July 2012 "on Amendments to the Federal Law 'On Production and Consumption Wastes' and Article 51 of the Budget Code of the Russian Federation" as published in the Russian Gazette No. 5845 of 30 July 2012;
- Government Decree No. 870 of 30 August 2012 "on Recycling Fee for Wheeled Transport Vehicles" as published in the Russian Gazette No. 5873 of 31 August 2012;
- Joint Order of 23 June 2005 of the Ministry of Internal Affairs No. 496, the Ministry of Economic Development and Trade No. 134 and the Ministry of Industry and Energy No. 192 "On approving Regulation on vehicle registration passports and chassis registration passports" as amended, including, by Joint Order of 30 August 2012 of the Ministry of Internal Affairs No. 828, the Ministry of Industry and Trade No. 1227 and the Federal Customs Service No. 1744 "On amendments to Joint Order of 23 June 2005 of the Ministry of Internal Affairs, the Ministry of Economic Development and Trade and the Ministry of Industry and Energy N 496/192/134" as published in the Russian Gazette No. 203 of 5 September 2012;
- Resolution of the Government of the Russian Federation No. 520 of 20 June 2013 on, inter alia, the approval of the rules for granting subsidies from the federal budget to organizations and individual entrepreneurs to reimburse expenses related to their handling of wastes resulting from the loss of consumer good characteristics of wheeled means of transport for which the recycling fee was paid as published in the Collection of Laws of the Russian Federation of 1 July 2013, N 26, p. 3342.

Russia's measures appear to be inconsistent with Russia's obligations under the covered agreements and, in particular:

- Article I:1 of the GATT 1994;
- Article II:1(a) and (b) of the GATT 1994;
- Article III:2 of the GATT 1994;
- Article III:4 of the GATT 1994;
- Article 2.1 and 2.2 of the TRIMs Agreement alone or in conjunction with Item 1(a) of the Illustrative List annexed to that Agreement;
- Article 2.1 and 2.2 of the TBT Agreement.

Japan reserves the rights to raise additional factual claims and legal matters during the course of the consultations.

Japan looks forward to receiving Russia's reply to this request for consultations and to agreeing upon a mutually acceptable date for the consultations.

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