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INDONESIA - CERTAIN MEASURES AFFECTING  
THE AUTOMOBILE INDUSTRY

Request for Consultations by Japan

The following communication, dated 29 November 1996, from the Permanent Mission of Japan to the Permanent Mission of Indonesia, is circulated in accordance with Article 4.4 of the DSU.

Upon instruction from my authorities, I wish to convey the request of the Government of Japan for consultations with the Government of Indonesia pursuant to Articles 1 and 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") and Articles 7 and 30 of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement") regarding certain automotive industry measures ("the Measures") of Indonesia (i.e. so-called National Car Programme), which were introduced by the Government of Indonesia in February 1996 by means of its Presidential Decree No. 2 and modified in June 1996 through its Presidential Decree No. 42.

The Government of Japan considers that the exemption from customs duties and luxury tax granted by the Measures constitutes subsidies, since there is a financial contribution by the Government of Indonesia where government revenue that is otherwise due is foregone or not collected, as provided for in Article 1 of the SCM Agreement. These subsidies are "prohibited subsidies" contingent upon the use of domestic over imported goods, and therefore deemed to be specific in accordance with paragraph 3 of Article 2 of the Agreement.

The Government of Indonesia has, through the promulgation of Presidential Decrees No. 2 and No. 42 after entry into force of the WTO Agreement, extended the scope of the subsidies inconsistent with the SCM Agreement which have been introduced before the date on which Indonesia signed the WTO Agreement, to the import of completed vehicles (i.e. "National Car"). This is, in the view of the Government of Japan, inconsistent with paragraph 1(b) of Article 3 and paragraph 2 of Article 28 of the SCM Agreement. The obligation of the Government of Indonesia under the said Article is not exempted by paragraph 3 of Article 27 of the same Agreement.

Furthermore, the Government of Japan considers that these subsidies cause serious prejudice to the interests of Japan as provided for in Article 6 of the SCM Agreement and, therefore, the Government of Japan may seek remedies under the provisions of Article 7 of the same Agreement, irrespective of whether the Government of Indonesia is entitled to maintain such subsidies under the SCM Agreement. Therefore, the Government of Japan hereby requests the Government of Indonesia to take appropriate steps to remove the adverse effects or withdraw these subsidies under the Measures.

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

We look forward to receiving your reply to this request for consultations and to agreeing that the consultations requested in this letter will be held simultaneously with the second round of consultations requested in my previous letter (WT/DS55/1), which is to be held in early December.