

INDONESIA - CERTAIN MEASURES AFFECTING THE  
AUTOMOBILE INDUSTRY

Request for Consultations from Japan

The following communication, dated 4 October 1996, from the Permanent Mission of Japan to the Permanent Mission of Indonesia and the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

-----

Upon instructions from my authorities, I hereby wish to convey the request of the Government of Japan for consultations with the Government of Indonesia pursuant to 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") and Article 8 of the Agreement on Trade-Related Investment Measures ("the TRIMs Agreement") regarding certain automotive industry measures ("the Measures") of Indonesia (i.e. so-called National Car Program), 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 National Car Program currently applied by the Government of Indonesia provides substantial tax and duty preferences to a new automobile model ("the Timor"), assembled for or by a specific Indonesian company that has received "pioneer" status. This company, "PT Timor Putra Nasional", formed a joint venture exclusively with Kia Motor Corp. ("Kia") of the Republic of Korea to produce the Timor first in the Republic of Korea and subsequently in Indonesia. Under the National Car Program, the Timor imported from the Republic of Korea in the first year, as well as components subsequently imported for the assembly of the Timor in Indonesia, will incur no customs duties or other import charges, whereas other imported automobiles and components are subject to substantial tariffs. An exemption from Indonesia's substantial luxury tax on sales of automobiles (normally 35%) will also apply to both the imported and locally-assembled Timor on more relaxed conditions than in the case of the other automobiles. To retain its tariff and tax exemption status, the Timor must fulfil several requirements, including a specified level of domestic content. The National Car Program was effectively implemented in October 1996, with the importation by PT Timor Putra Nasional of a substantial number of Timors for commercial sale in Indonesia.

The Government of Japan considers that the Measures are inconsistent with obligations of Indonesia under the WTO Agreement, including, in particular, GATT 1994 and the TRIMs Agreement. The provisions of these Agreements with which the Measures appear to be inconsistent include, but are not limited to, the following:

(1) Articles I:1, III:2, III:4, X:3(a) of GATT 1994; and

(2) Article 2 and 5.4 of the TRIMs Agreement.

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 upon a mutually acceptable date for the consultations. We wish to request that they be held within the week beginning on 21 October 1996.