

Ottawa, November 29, 2018

Mr. Timothy Sargent
Deputy Minister for International Trade

Dear Deputy Minister,

In connection with the conclusion of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (the Agreement) and the implementation and application of the Agreement, I have the honour to confirm the following agreement reached by the Government of Japan and the Government of Canada:

Japan and Canada re-affirm their obligations to provide most favoured nation treatment under Article I of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement and Articles 2.1 and 5.1.1 of the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement, with respect to technical regulations, standards or conformity assessment procedures related to motor vehicle safety and emissions adopted or applied by either Party. To this end, the Government of Japan shall take appropriate measures, in accordance with the laws and regulations in force in Japan, to ensure the implementation and application of the following arrangements, a more detailed factual description of which is set out in the Annex to this letter:

(a) Motor vehicles certified under Japan's Preferential Handling Procedure (PHP) benefit from streamlined exhaust emissions and noise emissions testing procedures;

(b) The PHP is adopted and applied in a manner that does not preclude the eligibility of motor vehicles certified under the PHP for any financial incentive measures of central government bodies¹ with respect to motor vehicles;² and

1 For greater certainty, a financial incentive measure of a central government body includes such a measure that is implemented by other entities, including local government bodies. The term "any financial incentive measures" includes, but is not limited to, tax incentive measures of central government bodies.

2 For greater certainty, when implementing a financial incentive measure, Japan may apply requirements for motor vehicles, including

(c) With respect to requirements of a safety regulation under the Road Vehicle Law of Japan that the competent authority of Japan identified as of April 1, 2015,³ if the competent authority of Japan finds that a requirement of the Federal Motor Vehicle Safety Standard of the United States (U.S. FMVSS) is no less stringent than the requirement under the Road Vehicle Law to which it corresponds, motor vehicles that comply with such a requirement of the U.S. FMVSS are deemed to comply with that requirement under the Road Vehicle Law. Such treatment will apply unless that requirement under the Road Vehicle Law is modified and, as modified, is substantially more stringent than previously.⁴ In that event, Japan will continue to provide such treatment for a period that is usually not less than 12 months after the date on which the requirement under the Road Vehicle Law is modified.

Japan and Canada will cooperate bilaterally, including in their activities under the 1998 Agreement, to harmonize standards for motor vehicle environmental performance and safety.

those imported under PHP, necessary to determine whether a motor vehicle satisfies the criteria of that financial incentive measure.

3 For the purposes of this subparagraph, the requirements of a safety regulation under the Road Vehicle Law that the competent authority of Japan identified as of April 1, 2015 are those not based on a regulation adopted under the Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which Can Be Fitted and/or Be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of These Prescriptions (UN Regulation), a regulation established under the Agreement Concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be used on Wheeled Vehicles (the 1998 Agreement) (GTR) or a U.S. FMVSS.

4 With respect to any subsequent modifications to those requirements under the Road Vehicle Law that the competent authority of Japan identified as of April 1, 2015, Japan will consider whether the requirement, as modified, is based on a UN Regulation or GTR and substantially more stringent than the previous requirement as a result.

I have the further honour to propose that, based on paragraph 3 of Article 28.3 (Scope) of the Agreement, this letter, and your letter of confirmation in reply equally valid in English and French, shall constitute an agreement between our two Governments, subject to dispute settlement under Chapter 28 (Dispute Settlement) of the Agreement. A complaining Party may request that a proceeding under this agreement be conducted under the timeframes set out in Chapter 28 (Dispute Settlement) or the accelerated timeframes for dispute settlement set out in Article 4 of Appendix D-2 (Between Japan and Canada on Motor Vehicle Trade) to Chapter 2 (National Treatment and Market Access for Goods) of the Agreement. This agreement shall enter into force on the date of entry into force of the Agreement as between Japan and Canada.

石 兼 公 博

Kimihiro Ishikane
Ambassador of Japan to Canada

1. Streamlined PHP Testing Procedures

The Government of Japan provided that the frequency of required sampling tests for compliance with exhaust emissions and noise emissions requirements be reduced for a type of motor vehicle imported into Japan under the PHP (PHP vehicle) on April 1, 2018. The testing ratios for such a type of motor vehicle will be no more frequent than as follows.

(a) For exhaust emissions requirements, the sampling test frequency was reduced from the previous requirement of one unit per 50 units for the first 300 units, and then one unit per 100 units thereafter, to the following:

- (i) In cases where performance significantly exceeds the applicable requirements in each prior sampling test, one unit per 100 units for the first 1,200 units, then reduced to one unit per 200 units for the next 1,800 units, and then reduced to one unit per 300 units thereafter.
- (ii) In all other cases, where performance meets (but does not significantly exceed) the applicable requirements in each prior sampling test, one unit per 50 units for the first 300 units, then reduced to one unit per 100 units for the next 2,700 units, and then reduced to one unit per 200 units thereafter.

(b) For noise emissions requirements, the sampling test frequency was reduced from the previous requirement of one unit per 300 units to the following: where performance meets the applicable requirements in each prior sampling test, one unit per 300 units for the first 1,200 units, then reduced to one unit per 600 units for the next 1,800 units, and then reduced to one unit per 900 units thereafter.

2. PHP Financial Incentives Measures

On August 1, 2018, to fulfill the commitment as provided in (b) of the letter, the Government of Japan revised the relevant ministerial ordinance and notification of the Energy Conservation Act to make the current tax incentive measures of central government bodies applicable to PHP vehicles.

Currently, the fuel efficiency standards and efficiency disclosure requirements under the Energy Conservation Act do not apply to PHP vehicles. With no fundamental shift in the relevant factors at this time which may result in the application of the aforementioned standards and requirements under the Act to PHP vehicles, there is no plan to change the current treatment provided to PHP vehicles under the Act and the current treatment will continue for the foreseeable future.

3. Standards

With respect to requirements of a safety regulation under the Road Vehicle Law of Japan that the competent authority of Japan identified, as provided in (c) of the letter, the following are the requirements provided under the U.S. FMVSS which the competent authority of Japan, the Ministry of Land, Infrastructure, Transport and Tourism, found no less stringent than those corresponding requirements provided under the Road Vehicle Law, as of April 1, 2015.

1. Full-wrap frontal collision (FMVSS 208)
2. Rear-end collision (FMVSS 301)
3. Flammability of Interior Materials (FMVSS 302)
4. Registration Plate Lamps (FMVSS 108)
5. Inside Rear-View Mirror Impact Absorption (FMVSS 111)
6. Windshield Wiping and Washing Systems for Passenger cars, etc. (FMVSS 104)
7. Windshield Defrosting and Defogging Systems (FMVSS 103)



Ottawa, November 29, 2018

His Excellency Mr. Kimihiro Ishikane
Ambassador of Japan to Canada

Excellency,

I am pleased to acknowledge receipt of your letter of November 29, 2018, which reads as follows:

“Dear Deputy Minister,

In connection with the conclusion of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (the Agreement) and the implementation and application of the Agreement, I have the honour to confirm the following agreement reached by the Government of Japan and the Government of Canada:

Japan and Canada re-affirm their obligations to provide most favoured nation treatment under Article I of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement and Articles 2.1 and 5.1.1 of the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement, with respect to technical regulations, standards or conformity assessment procedures related to motor vehicle safety and emissions adopted or applied by either Party. To this end, the Government of Japan shall take appropriate measures, in accordance with the laws and regulations in force in Japan, to ensure the implementation and application of the following arrangements, a more detailed factual description of which is set out in the Annex to this letter:

- (a) Motor vehicles certified under Japan’s Preferential Handling Procedure (PHP) benefit from streamlined exhaust emissions and noise emissions testing procedures;

- (b) The PHP is adopted and applied in a manner that does not preclude the eligibility of motor vehicles certified under the PHP for any financial incentive measures of central government bodies¹ with respect to motor vehicles;² and
- (c) With respect to requirements of a safety regulation under the Road Vehicle Law of Japan that the competent authority of Japan identified as of April 1, 2015,³ if the competent authority of Japan finds that a requirement of the Federal Motor Vehicle Safety Standard of the United States (U.S. FMVSS) is no less stringent than the requirement under the Road Vehicle Law to which it corresponds, motor vehicles that comply with such a requirement of the U.S. FMVSS are deemed to comply with that requirement under the Road Vehicle Law. Such treatment will apply unless that requirement under the Road Vehicle Law is modified and, as modified, is substantially more stringent than previously.⁴ In that event, Japan will continue to provide such treatment for a period that is usually not less than 12 months after the date on which the requirement under the Road Vehicle Law is modified.

Japan and Canada will cooperate bilaterally, including in their activities under the 1998 Agreement, to harmonize standards for motor vehicle environmental performance and safety.

¹ For greater certainty, a financial incentive measure of a central government body includes such a measure that is implemented by other entities, including local government bodies. The term “any financial incentive measures” includes, but is not limited to, tax incentive measures of central government bodies.

² For greater certainty, when implementing a financial incentive measure, Japan may apply requirements for motor vehicles, including those imported under PHP, necessary to determine whether a motor vehicle satisfies the criteria of that financial incentive measure.

³ For the purposes of this subparagraph, the requirements of a safety regulation under the Road Vehicle Law that the competent authority of Japan identified as of April 1, 2015 are those not based on a regulation adopted under the Agreement concerning the Adoption of Uniform Technical Prescriptions for Wheeled Vehicles, Equipment and Parts which Can Be Fitted and/or Be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the Basis of These Prescriptions (UN Regulation), a regulation established under the Agreement Concerning the Establishing of Global Technical Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be used on Wheeled Vehicles (the 1998 Agreement)(GTR) or a U.S. FMVSS.

⁴ With respect to any subsequent modifications to those requirements under the Road Vehicle Law that the competent authority of Japan identified as of April 1, 2015, Japan will consider whether the requirement, as modified, is based on a UN Regulation or GTR and substantially more stringent than the previous requirement as a result.

I have the further honour to propose that, based on paragraph 3 of Article 28.3 (Scope) of the Agreement, this letter, and your letter of confirmation in reply equally valid in English and French, shall constitute an agreement between our two Governments, subject to dispute settlement under Chapter 28 (Dispute Settlement) of the Agreement. A complaining Party may request that a proceeding under this agreement be conducted under the timeframes set out in Chapter 28 (Dispute Settlement) or the accelerated timeframes for dispute settlement set out in Article 4 of Appendix D-2 (Between Japan and Canada on Motor Vehicle Trade) to Chapter 2 (National Treatment and Market Access for Goods) of the Agreement. This agreement shall enter into force on the date of entry into force of the Agreement as between Japan and Canada.

Annex

1. Streamlined PHP Testing Procedures

The Government of Japan provided that the frequency of required sampling tests for compliance with exhaust emissions and noise emissions requirements be reduced for a type of motor vehicle imported into Japan under the PHP (PHP vehicle) on April 1, 2018. The testing ratios for such a type of motor vehicle will be no more frequent than as follows.

- (a) For exhaust emissions requirements, the sampling test frequency was reduced from the previous requirement of one unit per 50 units for the first 300 units, and then one unit per 100 units thereafter, to the following:
 - (i) In cases where performance significantly exceeds the applicable requirements in each prior sampling test, one unit per 100 units for the first 1,200 units, then reduced to one unit per 200 units for the next 1,800 units, and then reduced to one unit per 300 units thereafter.
 - (ii) In all other cases, where performance meets (but does not significantly exceed) the applicable requirements in each prior sampling test, one unit per 50 units for the first 300 units, then reduced to one unit per 100 units for the next 2,700 units, and then reduced to one unit per 200 units thereafter.

- (b) For noise emissions requirements, the sampling test frequency was reduced from the previous requirement of one unit per 300 units to the following: where performance meets the applicable requirements in each prior sampling test, one unit per 300 units for the first 1,200 units, then reduced to one unit per 600 units for the next 1,800 units, and then reduced to one unit per 900 units thereafter.

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- 5. Inside Rear-View Mirror Impact Absorption (FMVSS 111)

6. Windshield Wiping and Washing Systems for Passenger cars, etc.
(FMVSS 104)
7. Windshield Defrosting and Defogging Systems (FMVSS 103)”

I have the honour to confirm that my Government shares this understanding and to agree that, based on paragraph 3 of Article 28.3 (Scope) of the Agreement, your letter, and this letter in reply equally valid in French and English, shall constitute an agreement between our two Governments, subject to dispute settlement under Chapter 28 (Dispute Settlement) of the Agreement. A complaining Party may request that a proceeding under this agreement be conducted under the timeframes set out in Chapter 28 (Dispute Settlement) or the accelerated timeframes for dispute settlement set out in Article 4 of Appendix D-2 (Between Japan and Canada on Motor Vehicle Trade) to Chapter 2 (National Treatment and Market Access for Goods) of the Agreement. This agreement shall enter into force on the date of entry into force of the Agreement as between Canada and Japan.

Sincerely,

A handwritten signature in blue ink that reads "Tim Sargent". The signature is written in a cursive, flowing style.

Timothy Sargent
Deputy Minister for International Trade