



# JAPAN AUTOMOBILE MANUFACTURERS ASSOCIATION, INC.

WASHINGTON OFFICE

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**WILLIAM C. DUNCAN, Ph.D.**  
GENERAL DIRECTOR

October 9, 2003

The Honorable James J. Jochum  
Assistant Secretary for Import Administration  
U.S. Department of Commerce  
Central Records Unit  
Room 1870  
Pennsylvania Avenue and 14<sup>th</sup> Street, N.W.  
Washington, D.C. 20230

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U.S. DEPT OF COMMERCE  
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IMPORT ADMINISTRATION

ATTENTION: Section 201 Duties

Dear Mr. Secretary:

This letter is submitted on behalf of the Japan Automobile Manufacturers Association ("JAMA") in response to the Commerce Department's request for comments on the appropriateness of deducting countervailing (anti-subsidy) and Section 201 duties from the export price in antidumping margin calculations. JAMA appreciates the opportunity to comment on this important issue. JAMA is a nonprofit trade association representing Japanese car, truck, bus and motorcycle manufacturers. Its member companies are Daihatsu, Fuji Heavy Industries, Hino, Honda, Isuzu, Kawasaki, Mazda, Mitsubishi Motors, Mitsubishi Fuso Truck and Bus Corp., Nissan, Nissan Diesel, Suzuki, Toyota, and Yamaha. JAMA's member companies produce and sell motor vehicles and other automotive products in both Japan and the United States.

JAMA understands that the Department will receive detailed comments from others on this issue. JAMA has no desire to repeat those arguments. However, JAMA does wish to register its strong objection to the adoption of a policy that would allow the deduction of countervailing and Section 201 duties in antidumping calculations. JAMA describes below, briefly, the basis of its objection.

**1. There Is No Reason to Depart from the Department's Long-Standing Practice of Not Deducting CVD Duties in AD Margin Calculations.**

The Department's Notice suggests that the Department is contemplating deducting countervailing duties in antidumping margin calculations. For many years, the Department has consistently and emphatically refused requests by various domestic industries to adopt this practice. The Department has consistently ruled that deducting CVD duties in antidumping margin calculations would amount to imposing double punishment for the same act.

The Department's well-reasoned refusal has been expressly approved by the Courts. JAMA does not know of any recent change in law or factual circumstance that would compel the Department to reconsider its long-standing practice. Absent such change, JAMA submits that the same rationale, advanced by the Department for many years, is still valid.

**2. Deducting Section 201 Duties Would Establish a Bad Precedent that Would Likely Be Adopted by Other Countries.**

Because JAMA members do business on a global basis, their concerns are focused primarily in two areas--the inconsistency of such a change with the dumping law itself and the potential impact of such a change on the administration of the dumping laws of many other countries around the world. JAMA identifies the potential impact of such a change on the world trading system as a concern which JAMA believes DOC should weigh heavily in its consideration of this issue.

JAMA believes that U.S. dumping law does not provide a legal basis for a change in policy that would deduct safeguard duties in dumping duty calculations. Put briefly, Section 201 duties are not normal import duties, but special, remedial duties intended to achieve purposes which are far different from "normal" ad valorem duties.

It is very clear that the ultimate impact of deducting safeguard duties in calculating dumping margins would be to increase such margins. Based on prior Section 201 duty levels, the increase could be very substantial. This change would, of course, cause significant additional burdens on export to the United States which were subjected to both safeguard and dumping duties.

However, JAMA is also very concerned about the "mirror image" effect that this change could have outside the United States. Many other countries have both safeguard and dumping laws and procedures which track very closely with U.S. law, regulation, and practice. In many of those countries, however, these laws are seen as a much more "automatic" avenue to import restrictions. The prospect of concurrent safeguard and dumping duties in such countries is far more likely than in the United States, especially if the existence of a short-term safeguard is viewed as a means of raising a dumping duty to produce a total duty burden that is exclusionary. JAMA therefore believes that a change in U.S. policy in this regard could trigger similar changes in other countries that could have a substantial adverse effect on trade.

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It is, therefore, in the interest of the United States and the world trading system, as well as consistent with U.S. dumping law, to maintain the status quo in this area, by not deducting Section 201 duties in calculating dumping margins.

Sincerely,

A handwritten signature in black ink, reading "William C. Duncan", followed by a horizontal line.

William C. Duncan, Ph.D.

General Director

Japan Automobile Manufacturers Association, Inc.