

Japan International Value-added Network Services Agreement (#1 of 2) (1990)

EMBASSY OF JAPAN

WASHINGTON, D. C.

July 31, 1990

Dear Madame Ambassador:

It is my pleasure to note the satisfactory resolution of important telecommunications services and equipment issues subject to the bilateral talks beginning after March 30, 1990 concerning international value-added network services (IVNS) and Network Channel Terminating Equipment (NCTE). As a result of our recent discussions on these matters, the Ministry of Posts and Telecommunications (MPT) has decided to take the measures specified in the letters and the attachments, dated July 31, 1990 from Deputy Minister Igarashi to Ambassador Williams and Under Secretary Farren.

Let me confirm that the Government of Japan and the Government of the United States will meet, at the request of either party, to discuss issues relating to the implementation of the measures specified in the attachments to the letters.

The resolution of these issues has proved that our cooperation and joint efforts are most appropriate in addressing our bilateral trade problems. I hope that we will work even harder in the future to maintain and further develop our important economic relations.

Sincerely yours,

[signature]

Ryohei Murata

Ambassador of Japan

The Honorable

Carla A. Hills

The United States Trade Representative

Washington, D.C. 20506

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THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President

Washington, D.C. 20506

July 31, 1990

His Excellency

Ryohei Murata

The Ambassador of Japan A

2520 Massachusetts Avenue, N.W.

Washington, DC 20008

Dear Mr. Ambassador:

I sincerely hope that, as a result of recent discussions beginning after March 30, 1990, concerning international value-added network services (IV NS) and Network Communications International Training Equipment (NCTE), Ministry of Posts and Telecommunications (MPT) has decided to take measures described in letters and attachments of July 31, 1990, from Deputy Minister Igarashi to Ambassador Williams and Under Secretary Farran.

I also wish to confirm that Government of United States and Government of Japan have agreed, as a result of all the parties, to discuss issues relating to implementation of measures specified in letters and attachments.

I look forward to further development of telecommunications relations in a spirit of mutual cooperation and joint efforts.

Sincerely,  
<sup>a</sup>

[signature]

Carla J. Hills

Ambassador Sidney Linn Williams

Deputy United States Trade Representative

Executive Office of the President

Washington, D.C. 20506

To: Honorable J. Michael Farran

Under Secretary for International Trade

U.S. Department of Commerce

Washington, D.C. 20030

Dear Ambassador Williams and Mr. Farran:

With regard to recent bilateral discussions between our two Governments concerning international value-added network services (IV NS), Ministry of Posts and Telecommunications (MPT) has decided to take measures specified in attachments of July 31 (Policies and Procedures Regarding International Value-added Network Services) on the basis of IV NS market in Japan. MPT will implement all of provisions in<sup>1</sup> attachments of July 31 by no later than September 1, 1990, unless otherwise specified in<sup>2</sup> attachments.

I wish to confirm that in implementing procedures applicable to international Special Type II business, MPT will utilize procedures specified in Japan-U.S. IV NS arrangements including attachments of July 31 ("arrangements"), and MPT will not apply procedures applicable to international Special Type II business in the case of domestic, or average, of services, provision of IV NS services between United States and Japan. I also wish to confirm that MPT will also make an effort to expand IV NS services to points of sale of Japan in line with attachments. Furthermore, I wish to confirm that MPT will not apply a Type I carrier's compensation and to advance Type II business in provision of national and value-added services and to confirm that, for purposes of arrangements, NTT is considered to be a Type I carrier. Finally, MPT will take no measures in order for effective observation, and, deny or contravene terms or objectives of measures specified in arrangements. w  
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I also wish our two parties will meet, and request either party, on these issues relating to the implementation of the measures specified in the ASEM Guidelines. Furthermore, I would like to state that the Japanese side is prepared to meet, and request the U.S. side, on these issues a revision of the eleventh amendments to the Busiess Law (BL) or a new legislative regard to the resumption of NRI, if the U.S. side believes such revisions or legislative action are necessary for implementation of the Arrangements.

Yours sincerely,

[signature]

Mitsuo Igarashi

AASEM

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Honorable Mitsuo Igarashi

Deputy Minister for Policy Coordination

Ministry of Posts & Telecommunications

3-2 Kasumigaseki 1-Chome

Chiyoda-ku Tokyo 100

Dear Deputy Minister Igarashi:

Thank you for your letter of July 31, 1990, and the AASEM negotiations on the Japanese Ministry of Posts and Telecommunications (MPT) as decided on the respective value-added work services (IVANS). We were pleased to learn that MPT will implement all of the measures specified in the AASEM on your letter by October 1, 1990, unless a later date is specified in the AASEM on your letter.

We were also pleased to learn that implementation of procedures applicable to the Special Type II businesses, MPT will utilize the procedures specified in the Japan-U.S. IVANS Arrangements including the Policy and Procedures Regarding Inter-Value-Added Network Services ("Arrangements"), and that MPT will ensure that the procedures applicable to the Special Type II businesses will not be used to restrict, or have the effect of restricting, the provision of IVAN services between the United States and Japan. Further, we were pleased with your promise that MPT will make a thorough expansion of IVAN services with respect to Japan in line with the AASEM, and for purposes of the Arrangements, not considered to be a Type I carrier. Finally, we were pleased to learn that MPT will take the measures, either more or less than those observed, in order to have the terms and objectives of the measures specified in the Arrangements. Resolution of these issues represents an important step toward ensuring a U.S. and other origins have access to the Japanese IVANS market comparable to the access to the Japanese and other origins and joy in the U.S. enhanced services market.

We will be very interested in the implementation of the measures specified in the Arrangements. In particular, we note our vital interest in the surging: (1) the review of operating agreements with foreign companies required by the eleventh amendments to the Busiess Law (BL) will result in the restoration of the commercial terms of private agreements of the U.S.-owned companies; (2) the Type I carriers will compete fairly and without advantage with Type II businesses in the provision of enhanced or value-added services; and (3) the market access for U.S. companies to Japan's market for similar services will be provided in a competitive manner.

In addition, the two parties will meet in the context of the MOSS framework or otherwise, and request either party, on these issues the implementation of the provision of the Arrangements. Furthermore, we are pleased to learn that the Japanese side is prepared to meet, and request the U.S. side, on these issues a revision of the BL or a new legislative regard to the resumption of NRI, if the U.S. side believes such revisions or legislative action are necessary for implementation of the Arrangements.

We are pleased to inform you that the United States Government remains committed to affording equal opportunities to all companies to provide services for the United States Government. The United States Government is preparing to meet the request of the Government of Japan, and is assessing the request regarding the arrangement.

Please accept our appreciation for your wish to use work together in a spirit of mutual partnership.

Very truly yours,

S. Li Williams

J. Michael Farre

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## ATTACHMENT

### POLICIES AND PROCEDURES REGARDING INTERNATIONAL VALUE-ADDED NETWORK SERVICES (IVANS)

Consistent with the principles of the Japan-U.S. IVANS Arrangement, the following policies are set forth regarding International Value-Added Network Services ("Arrangement") and support the objective of ensuring that U.S. and foreign firms are afforded comparable access to the Japanese International Value-Added Network Services (IVANS) market. The Japanese and foreign firms enjoy the U.S. and foreign services market, the Ministry of State Telecommunications (MT) will take the following steps:

#### I. REGISTRATION

MT has implemented a will to use implementation measures to permit registration and simplify administrative procedures. From this point of view, MT requires as follows:

1. MT will accept as file for registration, with the requirement of pre-submission review and approval, any application for International Special Type II registration, provided such application forms are filed with the Telecommunications Business Law (TBL).

MT will process applications within 15 calendar days after filing and will notify the applicant within the 15-day period if the decision is that there is a deficiency or a problem with the application. If an application is received from MT within the 15-day period, it may begin its business 20 calendar days after the filing of the application. In any event, MT will provide the applicant with written notification of its approval or denial of the application for registration within 30 calendar days after filing.

2. Certain special registration, as set forth in Article 24 of the TBL, are clarified in the March 28, 1985 Kiyama-Olmer letter as follows:

(i) Any financial information required for purposes of registration shall be supplied from a representative report. The financial basis for a Special Type II business shall be substantiated by a statement of review and assessment, provided by a financial institution.

(ii) A simple one-page work map and listing of services are pressing needs will suffice.

(iii) Only the application will be necessary for all services.

3. If MT receives a request for registration, it will provide the applicant with a written statement outlining the grounds for denial within 30 calendar days after the filing of the application. An application may be immediately pursued by the interested party after the filing of the application. Article 26 of the TBL.

4. Tariffs for International Special Type II businesses shall be waived if MT pursues Article 31 of the TBL. Notification measures have been put in place for subsequent approval of the tariff requirement. P

5. MPT will not impose conditions on registration of subscribers in electronic Special Type II business.

6. MPT confirms no provision of the TB or revisions of the TB shall be of Special Type II businesses will be allowed to impose on electronic Special Type II businesses "common carrier" obligation to serve the public generally.

7. MPT confirms the concept of "many and unspecific" in Article 21(3) of the TB is not and will not be applied to IVANS, as provided in the March 10, 1987 Standard-Smartcard and other men concerning IVANS.

8. In the corporate Communications and Joint Use

(i) MPT will require Type I carriers to submit to MPT applications for authorization to revise their tariffs so that in the corporate and joint users of private leased circuits provided by Type I carriers may in the future submit their own public switched telephone network (PSTN) based in Japan and in the United States, provided that such corporate and joint users do not use such circuits to offer telecommunications services to others or to operate a telecommunications business, as defined in Article 2 of the TB. Such corporate and joint users shall have the necessary policies to prevent their use of circuits in the future of the PSTN based on the purpose of engaging in "simple resale," bypassing the PSTN. MPT will ensure that tariff revision will be more effective on November 1, 1990, on or after which date in the corporate and joint users may request and will be granted service under the revised tariff.

(ii) MPT confirms that it will not require in the corporate telecommunications telecommunications business or telecommunications service under the TB, and will not require entities engaged in such telecommunications to register as telecommunications business.

(iii) Private leased circuit services used for in the corporate telecommunications, which are provided by Type I carriers, may be used for ordinary voice, data or image telecommunications, but shall not be used for intermediate telecommunications among unrelated, non-affiliated third persons.

( ) For the purposes of this Act, the term "in the corporate telecommunications" means telecommunications so they will in the same juridical person or telecommunications between affiliated companies.

(b) For the purposes of this Act, the term "affiliated companies" means one company is juridical person owning 10 percent or more of the issued stock or capital (hereafter "capital") of another company; company more than 10 percent of the capital of which is owned by another corporation, or two companies "affiliated" with third company.

(iv) In a group of affiliated companies, as defined above, one of the affiliated companies may be the provider of telecommunications for and among other affiliated companies, which may be considered to be providing telecommunications business or being required to register as telecommunications business.

(v) Upon expiration by the subscriber of telecommunications facilities within the definition of in the corporate telecommunications in this Act, and in the same necessary policy to prevent simple resale, Type I carriers shall make services available for telecommunications within the reasonable period of time. The Type I carrier and its subscriber will negotiate mutually agreeable due date for furnishing service. If the Type I carrier fails to provide service within this period, the Type I carrier will be required to provide to the subscriber, within 15 calendar days after the expiration date of the above period, a written explanation of the delay and written commitment specifying the reasonable period within which it will make the service available. MPT will appoint a proper company by the subscriber of the Type I carrier satisfied to provide service, and within 15 calendar days will issue written decision on such proper company.

(vi) In the corporate users of Type I carrier services may also use such services to provide direct processing services or other telecommunications services that do not constitute telecommunications of others by using telecommunications facilities.

(vii) MPT confirms that it will permit joint use of Type I carrier facilities and services and MPT will not require such joint use as telecommunications services or telecommunications business under Article 2 of the TB. MPT will not require joint users to register as telecommunications business. L

(viii) Join o priva l a d circ i rvic provid d by Typ I carri r will incl d voic , da a or imag communica ion , b will no incl d h in rmedia ion o l communica ion rvic b we n or among non-a ilia d compani or non-join r .

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10. MPT will ak h n c ary mea r o mak availabl o ho irms wi hing x n r h IVANS mark in Japan ma rial ing or h and plaining h proc d r h y mu ollow in iling an applica ion or r gi ra ion, ob aining r vi w o ah op ra ing agr men and ob aining r vi w o a non- ari ba d con rac wi h an in rna iona l Typ I carri r.

11. R -r gi ra ion

(i) Onc MPT ha gran d r gi ra ion o an in rna iona l Sp cial Typ II b in , MPT will no r q ir ch b in or -r gi r or o amend i i ing r gi ra ion a a r l o any "minor chang " ip la d in Ar icl 36 o h Mini rial Ordinanc or or h addi ion or d l ion o any rvic nhanc men , chnical capabili y or a r o a rvic in a rvic ca gory (da a, voic , imag , or mi d) or which r gi ra ion ha alr ady b n gran d.

(ii) In h ca o a chang or which Ar icl 27 o h TBL r q ir a r gi ra ion o chang , MPT will proc an applica ion h r or wi hin 15 cal ndar day a r iling and will no i y h applican wi hin h 15-day p ri od i i d rmin ha h r i a d ici ncy or any o h r probl m wi h h applica ion. I an applican do no r c iv no i ca ion rom MPT wi hin h 15-day p ri od, i may c h chang 20 cal ndar day a r h iling o h applica ion. In any v n , MPT will provid h applican wi h wri n con irma ion o i approval or d nial o h applica ion or amendmen o i r gi ra ion wi hin 30 cal ndar day a r iling.

## II. OPERATING AGREEMENT

1. An applican or r gi ra ion a an in rna iona l Sp cial Typ II b in may il , conc rr n ly wi h h iling o i x applica ion or r gi ra ion and wi ho b ing r q ir d o compl a pr - bmi ion r vi w, an applica ion or a horiza ion o i op ra ing agr men , p r an o Paragraph 2 o hi S c ion. Wi hin 30 cal ndar day a r x an applica ion or a horiza ion i il d, MPT will a horiz or d ny h applica ion, provid h applican wi h

written confirmation it authorizes denial, and, where authorization is denied, provide the applicant with written statement outlining the grounds for denial.

2. In order to decide whether a request authorizes an application, MPT will review only the following items in proposed permitting agreement:

(i) Name of the parties to the agreement:

- company name

- registered address

- name of representative

(ii) Scope of the agreement:

- whether the agreement covers only the relationship between the parties to the agreement or covers other interconnected company (ies)

- whether the relationship between the parties to the agreement is exclusive or not

(iii) Service:

- description of service to be rendered by the parties to the agreement

(iv) Technical standards:

- protocol to be used for network interconnection (As provided in the November 11, 1988 Okuy - Moore letter, "International Special Type II service providers who appropriate rights for network interconnection shall submit a permitting agreement to the Ministry of Posts and Telecommunications which states their intentions to have a viable technical capabilities to secure interconnection with their IVAN providers." The International Regulatory the technical capabilities required in the technical agreement to that letter.

(v) Operating methods:

- description of service enhancement and how the enhancement is provided (e.g., value-added services by using time- and-ward function, service provision by using MHS protocol)

MPT will review the items only to determine whether they require registration. The three requirements are the following requirements and none of them will be used in the review. The three requirements are that the following items are: (1) agreement, (2) consent of Japan-U.S. bilateral arrangement, and (3) sincerely fulfill the obligation imposed by the other binding international obligation, pursuant to Article 37 of the TBL.

MPT respects CCITT recommendations and intends to the fullest extent, but will not use such recommendations in its review of permitting agreement between Japanese and foreign IVANS business entities, legally speaking, such CCITT recommendations are not mandatory obligations.

3. MPT will not use its authority to deny a permitting agreement for the purpose of delaying beyond 30 calendar days decision on whether service is enhanced or basic defined under this Attachment.

4. Once MPT has authorized an application, it will not subject a permitting agreement to further review except where the agreement is amended or terminated, pursuant to Article 40 of the TBL.

5. Upon request either party to a permitting agreement, MPT will reconsider its decision to deny an application or authorize and provide written notification upholding or overturning its decision, well the grounds for this reconsidered decision, within 30 calendar days after the request.

6. Where the grounds provided by MPT for its reconsidered decision to deny an application or authorize relate to the service or performance of service provided in the permitting agreement, MPT will consult directly with the United States Government.)

7. Subsequent to the filing of the petition for review of the decision of the Panel of the Appellate Body, the Panel shall review the decision of the Panel of the Appellate Body.

8. If a complaint is filed pursuant to paragraph 7 of this Section, the Panel shall review the complaint. As a consequence of the Panel's review of the complaint, there will be a delay in the implementation of the measures, the Panel shall review the complaint.

9. If the Panel of the Appellate Body is considering a dispute in a Special Type II business case, the Panel shall review the complaint. As a consequence of the Panel's review of the complaint, there will be a delay in the implementation of the measures, the Panel shall review the complaint.

10. For the purpose of the implementation of this Article, the Panel shall review the complaint. As a consequence of the Panel's review of the complaint, there will be a delay in the implementation of the measures, the Panel shall review the complaint.

11. If the Panel of the Appellate Body is considering a dispute in a Special Type II business case, the Panel shall review the complaint. As a consequence of the Panel's review of the complaint, there will be a delay in the implementation of the measures, the Panel shall review the complaint.

(i) If the Panel of the Appellate Body is considering a dispute in a Special Type II business case, the Panel shall review the complaint. As a consequence of the Panel's review of the complaint, there will be a delay in the implementation of the measures, the Panel shall review the complaint.

( ) where the change in the geographical area of service does not exceed the increase or decrease of five (5) percent;

(b) where the increase or decrease in the number of service does not exceed the increase or decrease of 250 circuits included in the basic circuit area of service.

For the purpose of this Paragraph, the change in the number of service does not exceed the increase or decrease of five (5) percent.

(ii) If the Panel of the Appellate Body is considering a dispute in a Special Type II business case, the Panel shall review the complaint. As a consequence of the Panel's review of the complaint, there will be a delay in the implementation of the measures, the Panel shall review the complaint.

(iii) If the Panel of the Appellate Body is considering a dispute in a Special Type II business case, the Panel shall review the complaint. As a consequence of the Panel's review of the complaint, there will be a delay in the implementation of the measures, the Panel shall review the complaint.

(iv) The procedures for the Panel of the Appellate Body shall be the same as the procedures for the Panel of the Appellate Body.

(v) The Panel of the Appellate Body shall review the complaint. As a consequence of the Panel's review of the complaint, there will be a delay in the implementation of the measures, the Panel shall review the complaint.

### III. NON-TARIFF-BASED CONTRACT SERVICES

1. Non-tariff-based contract services are special measures to facilitate IVANS business, while ensuring the security of the CCITT Recommendation, the design of the service is the responsibility of the service provider. However, the Panel of the Appellate Body shall review the complaint. As a consequence of the Panel's review of the complaint, there will be a delay in the implementation of the measures, the Panel shall review the complaint.

(ii) a provide e subscribe wi addi i nal, diffe<sup>p</sup> en es uc u ed inf<sup>ma</sup> i n; and T

(iii) that in the subscriber's international routing number that a carrier is using the tag and automatic dialing function of the subscriber's telephone number shall include the prefixing application of the subscriber's paragraph (i) or (ii) of this Paragraph, where the tag and dialing function of the carrier's automatic telephone number shall be required.

3. A carrier that combines basic and enhanced carrier functions in a single rate of service shall add when the carrier provides for the enhanced part of the carrier's offering, although such enhanced service may not be required in a particular case.

(i) withstanding the above, the enhanced service shall be required to be provided on a carrier-by-carrier basis with regard to enhanced carrier's rate of service.

(ii) With respect to enhanced carrier's rate of service, IVASB within which provides carrier's enhanced service described in Paragraph 2 of this Section may agree, at the request of the customer in a particular case, to transmit with such enhanced service a part of the carrier's rate of service, although the technical capability to provide carrier's enhanced service on a carrier-by-carrier basis.

(iii) withstanding Paragraph 3 (ii) of this Section, the enhanced service shall be required to be provided on a carrier-by-carrier basis prior to the date, with regard to enhanced carrier's rate of service. With regard to the carrier's requirement, MPT will issue a standard for financial information which enhanced carrier's rate of service may have in international Type I carrier, but in actuality, with a view to finding a possible way to remove the carrier's requirement a tip-off in paragraph (i) above. MPT will complete the study in the year from the effective date of this Attachment.

4. Some examples of carrier's that are enhanced carrier's rate of service are:

(i) data communication carrier's that in:

(a) code and/or format carrier's in a fax example is that in Table I of CCITT Recommendation X.408 is it quite a lot;

(b) protocol carrier's, in addition that between X.25 and X.75 in packet switching (with regard to packet switching, carrier's provide protocol carrier's may agree to transmit message with such carrier's in a part of the carrier's rate of service); and

(c) terrestrial and forward.

(ii) facilities communication that in terrestrial and forward rate of service function is that in paragraph 4 (i)

(a) or (b) above.

5. Other examples of carrier's that are enhanced carrier's rate of service are: enhanced service, enhanced service facilities (including terrestrial and forward), and any other carrier's that may be the computer processing application described in Paragraph 2 of this Section.

## V. OTHER

### 1. Safeguard

(i) MPT will ensure that when a Type I carrier's computer with a Type II bureau in the prior facilities shall add the carrier's, with the direct or through an affiliate, such carrier's will not engage in anti-competitive conduct which is contrary to public interest, practice, or the carrier's rate of service or the carrier's rate of service.

(ii) MPT will ensure that effective safeguard measures are implemented to prevent such anti-competitive conduct, and will ensure that Type I carrier's provide to Type II bureau access to network carrier's and functions which are not the carrier's that Type I carrier's provide to the network and the affiliate. MPT will take immediate action to eliminate any such anti-competitive conduct.

(iii) By April, MPT will publish a Special White Paper specifying the administrative measures that MPT will implement to ensure effective safeguards to prevent such anti-competitive conduct. MPT will ensure public input from a interested persons including domestic and foreign-owned Special Type II businesses in the development of the Special White Paper on Safeguards. During the five (5) years in which the safeguards measures are implemented, MPT will continue to inform a interested persons including Special Type II businesses of the status of the implementation of the safeguards measures.

(iv) Effective safeguards may be structured as non-structural but MPT will ensure that such safeguards provide that Type I companies furnish Type II businesses with access to network services and functions equivalent to the access that Type I companies furnish to the services and to their affiliates.

(v) MPT will set forth in the Special White Paper the measures to be implemented during the Japan Fiscal Year and the measures to be implemented over the course of the next five (5) years and also indicate probable ease equipping the study.

(vi) In addition, MPT will immediately begin a review of the Accounting Ordinance to be completed by April. By October 5, 2000 MPT will meet with the U.S. side with the objective of considering how the review of the Accounting Ordinance would be conducted so as to identify appropriate revisions that would promote conditions of fair competition between Type I companies and Type II businesses.

2. MPT will make its processes for authorizing Type I companies' tariffs and non-tariff based controls relating to services offered to international Special Type II businesses more transparent by publishing and making available to a interested persons all relevant laws, ministerial ordinances and ministerial decisions affecting the provision of IVAN services. MPT will ensure public input into its decision-making process concerning the establishment and/or modification of measures within MPT's authority including but not limited to ministerial ordinances affecting the authorization of Type I companies' tariffs and non-tariff based controls that relate to the provision of IVAN services.

3. MPT confirms that cross-subsidization measures do not apply to international Special Type II businesses providing IVANS. Basic cross-subsidization measures applicable to Type I companies are stipulated in the Ministerial Ordinance concerning accounting regulations pursuant to Article 33 of the TBL. These "Preventive Measures Against Cross-Subsidization" are summarized in the March 28, 1985 Koryu-OI letter and attached hereto as part of the MOSS Annex on Telecommunications.

4. International Special Type II businesses may provide IVAN services between Japan and any point outside of Japan and a bilateral arrangement permitting such services will not be required in order to provide such services under the following conditions:

(i) IVAN services to be provided fall within the scope of services covered by this Attachment;

(ii) The laws, regulations and other measures governing telecommunications services at the point outside of Japan do not prohibit the offering of such services; and

(iii) The laws, regulations and other measures governing telecommunications at the point outside of Japan do not require a pre-existing bilateral arrangement with Japan before such services may be offered.

MPT will confirm in writing to the international Special Type II business within 30 days of a request from the international Special Type II business that the above three conditions have been fulfilled. If MPT is not able to confirm that the above three conditions are met within 30 days of a request for such confirmation from the international Special Type II business, then MPT will consult with the U.S. side immediately in order to promptly conclude the confirmation process.

[Letterhead]

DEPUTY UNITED STATES TRADE REPRESENTATIVE

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EXECUTIVE OFFICE OF THE PRESIDENT

WASHINGTON C 20506

De  
April 27 1991

The Honorable Tsuo Igarashi

puty nister for Policy Coordination

nistry of Posts and Telecommunications

3-2 Kasumigaseki I-Chome Chiyoda-Ku Tokyo 100

ar puty nister Igarashi:

Thank you for your letter of April 27 1991 and its Attachment and Appendix concerning the policies the nistry of Posts and Telecommunications ( T) confirms and measures the T will take consistent with the 1990 Policies and Procedures regarding International Value-Added Network Services which is attached to your letter of July 31 1990 to Ambassador Williams and Under Secretary J chael Farren Please accept our continued appreciation and wish to work together in a spirit of mutual cooperation and joint efforts

Very truly yours M

[signature]

S Linn Williams

[signature]

De  
Timothy J Bride

[letterhead]

puty nister for Policy Coordination

nistry of Posts and Telecommunications M

3-2 Kasumigaseki 1-chome

Chiyoda--ku Tokyo 100-90 JAPAN

April 27 1991

Ambassador S Linn Williams

puty United States Trade Representative Executive

Office of the President

Washington C 20506

Timothy J Bride

Assistant Secretary for International Trade

U S partment of Commerce

Washington C 20230

ar Ambassador Williams and Assistant Secretary Bride:

Consistent with the 1990 Policies and Procedures Regarding International Value--Added Network Services which is attached to my letter of July 31 1990 to Ambassador Williams and Under Secretary J chael Farren I am pleased to inform you that the nistry of Posts and Telecommunications confirms the policies and will take the measures described in the Attachment and Appendix to this letter M

Yours sincerely

[signature]

Mitsuo Igarashi

Deputy Minister for Policy Coordination

ATTACHMENT

With regard to the implementation of the 1990 Policies and Procedures Regarding International Value-Added Network Services (IVANS Policies and Procedures) which is attached to Deputy Minister Mitsuo Igarashi's letter of June 31, 1990 to Ambassador S. Linn Williams and Under Secretary J. Michael Farr of the Ministry of Posts and Telecommunications (MPT) confirms the following.

#### I. Private Limited Corporation for Joint Use and Intra-Corporate Communications

If a customer is requesting private limited services for Joint use and/or intra-corporate communications under the terms of the IVANS Policies and Procedures it is necessary for the customer to fill in the "Statement" on the Form for the provision of the TPI Arrangements Services required by the customer and submit the Form to the TPI Arranger. (Sample Form attached as Appendix.) The "Statement" is identified as nos. 1 through 8 on the Sample Form attached. It is also necessary for the customer to certify (noted in Appendix) that its communications conform to the following definition of joint use and/or intra-corporate communications: The term "joint use" means the use of private limited services by more than one company where one company owns 10 percent or more of the capital of the other company and the two companies have a continuing business relationship; where two companies have a relationship of continuing business transactions (defined as meaning that either company accounts for 20 percent of the gross value of the other's transactions--e.g. purchases or sales); or where the joint user has a continuous contractual relationship with one of the companies such as a business tie-up (that is a relationship of mutual assistance such as the commissioning of business operations). The term "intra-corporate communications" means communications so within the same juridical person or communications between "affiliated companies". The term "affiliated companies" means one company that is a juridical person holding 10 percent or more of the total issued stock or capital (hereafter "capital") of another company; a company more than 10 percent of the capital of which is owned by another corporation or two companies "affiliated" with a third company. It is also necessary for such a joint or intra-corporate user when it seeks to enter into its private limited service with the Public Switched Telephone Network (PSTN) both in Japan and in the United States to certify (noted in Appendix) that it has the technical capability to provide simple services.

The statements concerning joint use and intra-corporate communications user status and technical capability shall be sufficient to satisfy the above-mentioned certification requirements in all cases of joint use communications where private limited services are entered into with the PSTN in the United States and Japan intra-corporate communications where private limited services are entered into with the PSTN in the United States and Japan and the intra-corporate or joint use of an excess part of capacity on a non-tariff-based contractual service under an international Special Tariff II business.

The TPI Carrier is required to supply a Form for joint use and intra-corporate communications where in the interest required from the customer will be classified into the interest items that are "Statement" for the provision of required services (items 1 through 8 on the Sample Form attached) and the items that are not necessary unless the customer wishes to obtain optional services including but not limited to installation of in-house wiring of terminal equipment by the TPI Arranger provisions for routing diversification arrangements or intermultiplexing for the domestic portion of the circuit. Such optional items are listed on the Sample Form as nos. 9 and 10 and should also be added in no. 1. On the "Statement" is necessary for the TPI Arranger to provide required services must be filled in. The customer is not required to attach documents that support the statements on the Form. The format of the optional information required in nos. 4 and 5 may be decided upon by the customer (see "Notes" in Appendix to Attachment). N

The Type I carrier is used to accept the above information provided by the customer. Upon the customer's submission of the above information to the Type I carrier, the Type I carrier is used to furnish the provided cut-off for the next round of leased cut-off service with the condition of time, manner and content with the IVAN Police and Procedure.

## II. Traffic Review

The MPT will approve by June 30 the revised traffic for Type I carrier consistently with the 1990 Police and Procedure Regarding International Value-Added Network service including point-to-point connection of the Attachment S and the attached Sample Form.

## II. Interconnection

When interconnection is leased cut-off used for joint use and/or inter-company communication, the carrier is connected to the public switched telephone network both in Japan and in the United States, the Japanese carrier and the joint use in Japan are not permitted to engage in multiple use between Japan and the United States. If Type I carrier presents evidence that such carrier of the joint use in Japan is engaging in multiple use between Japan and the United States, it may suspend the use of the service of the carrier until the contract only if the MPT authorizes, following an MPT investigation to determine that such carrier of the joint use in Japan is engaging in multiple use between Japan and the United States.

To conduct the investigation, the MPT can use Type I carrier to ensure that the carrier provide to the MPT information necessary for the MPT to determine that the Japanese carrier of the joint use in Japan is engaging in multiple use between Japan and the United States.

The MPT and the U.S. Government will consult over the next 60 days to agree on mutually acceptable investigation procedures.

## Appendix

Note 1 OPTIONAL: Please attach diagram to this Form, which illustrate the configuration of the carrier's system limited to the telecommunication cut-off circuit controlled by the Type I carrier (including those controlled jointly by the Type I carrier and non-carrier telecommunication carrier).

Note 2: In the case of application for provision of leased cut-off for joint use and/or inter-company communication, please attach statement to this Form, in which the carrier certifies that the communication conforms to the definition of joint use or inter-company communication: The term "joint use" means the use of provision of leased cut-off service by more than one company, where one company owns 10 percent or more of the capital of the other company and the two companies have continuing business relationship; where two companies have relationship of continuing business transaction (defined meaning that the company accounts for 20 percent of the gross value of the other's transaction --e.g., purchase order); or where the joint use has continuous contractual relationship with one of the companies, such as business tie-up (that is, close relationship of mutual assistance, such as the commissioning of business operation). The term "inter-company communication" means communication solely within the jurisdiction of the communication between affiliated companies. The term "affiliated company" means one company that jurisdiction holds 10 percent or more of the total issued stock or capital (hereafter "capital") of another company; a company more than 10 percent of the capital of which is owned by another corporation, or two companies "affiliated" with third company.

Statement:

I hereby certify that my communication conforms to the definition of "joint use" which means the use of provision of leased cut-off service by more than one company, where one company owns 10 percent or more of the capital of the other company and the two companies have continuing business relationship; where two companies have relationship of continuing business transaction (defined meaning that the company accounts for 20 percent of the gross value of the other's transaction --e.g., purchase order); or where the joint use has continuous contractual relationship with one of the companies, such as business tie-up (that is, close relationship of S

mutual assistance as to omission of business operations) and/or "incorporated companies" which means companies solely with the same jurisdiction or companies between "affiliated companies" which means companies that are a jurisdictionally owned 10 percent or more of the total issued stock or capital (after capital) of another company; a company more than 10 percent of the capital of which is owned by another corporation or two companies "affiliated" with a third company

(Signature)

Not 3: It is as of an application for a private land use right for joint use and/or incorporation of companies where private land use rights are owned to the public switch and telephone network both in Japan and in the United States plus attached a statement to the effect, in which the customer certifies that it has the technical capability to provide simplified service

Statement:

I hereby certify with respect to a private land use right in the PSTN at both ends that I have the technical capability to provide simplified service

(Signature)

Not 4 OPTIONAL: It is as where the Type I Arranger is required to install NCTE and/or other terminal equipment on the customer's premises plus attached a diagram to the Form, which illustrates a section of the floor plan of the terminal equipment and various wiring (vertically)

Not 5 OPTIONAL: It is as of a request for a voluntary review plus attached a document to the Form which provides information necessary for the Type I Arranger to provide such voluntary reviews

[Also included is Appendix B Sample Form, in Japanese and English titled Inter-Regional Private Land Use Right Form for Joint Use and Incorporated Companies in Japan and English. It is not reproduced here]

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*TANC offers these agreements electronically as a public service for general reference. Every effort has been made to ensure that the text presented is complete and accurate. However, copies needed for legal purposes should be obtained from official archives maintained by the appropriate agency.*