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apan Major Projects Arrangement (1991)

WASHINGTON, D. C.

uly 31, 1991

Dear Secretary Mosbacher:

I am writing to you with regard to the review of the Major Projects Arrangements, described in Ambassador Nobuo Matsunaga's letter of May 25, 1988 to Secretary of Commerce William Verity (hereinafter referred to as the "MPA"). This review, which the Governments of apan and of the United States of America began in May 1990, as provided for in the Matsunaga-Verity exchange of letters, was completed on une 1, 1991. The results of this review are described in Appendix I, entitled "apan-U.S. oint Report on the Review of Major Projects Arrangements," which is attached to this letter.

In the absence of an international agreement governing procurement systems of public works and recognizing that procurement systems are different among nations, the Governments of apan and of the United States of America agreed to respect each other's procurement system. In this context, the Government of apan, after discussions with the Government of the United States of America, decided in May 1988 to introduce the MPA based on the fact that foreign companies had not been familiarized with the anese system.

Although the MPA has contributed to the achievements of their intended goals, the Government of apan has decided, in an attempt to promote further familiarization of foreign firms with, and thus to facilitate greater access to, the anese construction market, to take additional adjustment measures, which I expect to be implemented quickly. This letter transmits "Policies and Special Measures of the Government of apan Relating to Construction Procurement" attached as Appendix II, which is comprised of "General Statement of Policies" (Part I) and "Special Measures for Major Designated Public Works and Private Projects" hereinafter referred to as "Special Measures" (Part II).

The Special Measures will replace the following documents:

1. All of the appendices to Ambassador Matsunaga's letter to Secretary Verity of November 4, 1987; and
2. All of the appendices and attachments to Ambassador Matsunaga's letter to Secretary Verity of May 25, 1988.

The policies set forth in Ambassador Matsunaga's letters to Secretary Verity of May 25, 1988, as well as the purposes of the MPA remain unchanged.

I would like to confirm that the contents of Appendix II are acceptable to our two Governments. The Government of apan will implement the measures described in the contents of Appendix II in a mutually beneficial manner.

Sincerely,

Ryohei Murata

Ambassador of apan

The Honorable

Robert A. Mosbacher

Secretary of Commerce J

Washington C 20230

Appendices:

I Japan-U S J int Rep rt n the Revie f the Maj r Pr jects Arrangements

II Policies and Special Measures f the G overnment f Japan Relating t C nstructi n

THE SECRETARY OF COMMERCE

Washington C 20230

July 31 1991

His Excellency Ry hei Murata

Ambassad r f Japan

2520 Massachusetts Avenue N W.

Washington C 20008

ar Mr Ambassad r:

I am pleased to ackn edge receipt f y ur letter f t day's date and the attached d cuments th regard t the revie w f the Maj r Pr jects Arrangements ("MPA") described in Ambassad r N bu Matsunaga's letter f May 25 1988 t Secretary f C mmerce William Verity The G overnment f the United States f Am rica c nirms the results f the revie described in Appendix I The j int assessment f the MPA set f rth in the "Japan-U S J int Rep rt n the Revie f Maj r Pr jects Arrangements " ich is transmitted th y ur letter is acceptable t my G overnment

The G overnment f the United States f America lc mes the decisi n f the G overnment f Japan t expand the sc pe f c verage f the MPA and t take the additi nal adjustment measures set f rth in Appendix II entitled "P lices and Pr cedures f the G overnment f Japan Relating t C nstructi n Pr curement " ich s als transmitted th y ur letter It is my expectati n that the c ntents f Appendix II ll be implemented quickly h a

It is my understanding that the Special Measures ll replace the f ll ng d cuments:

1 All f the appendices t Ambassad r Matsunaga's letter t Secretary Verity f N vember 4 1987; and

2 All f the appendices and attachments t Ambassad r Matsunaga's letter t Secretary Verity f May 25 1988

It is my further understanding that the p lices set f rth in Ambassad r Matsunaga's letters t Secretary Verity f May 25 1988 as ll as the purp ses f the MPA remain unchanged

As a result f the pp rtunities made available under the MPA U S firms have made significant eff rts t participate in maj r pr jects in Japan The adjustments (f r example Track IV pr cedures) ll enable ur G overnments t res lve pr cedural questi ns that ar se under the riginal MPA

The g al f ur eff rts is t achieve significant participati n by f reign firms in maj r pr jects in Japan This ll require a c ntinued str ng c mmitment by U S firms t take advantage f these ne pp rtunities and by b th ur G overnments t res lve pr mptly any pr blems ich may arise i

I uld like t c nfirm that the c ntents f Appendix II are acceptable t ur t G overnments The G overnment f Japan ll implement the measures described in the c ntents f Appendix II in a mutually beneficial manner

Sincerely;

R bert A Mosbacher

Appendix I: Japan-U S J int Rep rt n the Revie f the Maj r Pr jects Arrangements w

APPENDIX I

U.S. Joint Report

o

the Review of the Major Projects Arrangements

[The content of the Appendix has not been included.]

APPENDIX II

POLICIES AND SPECIAL MEASURES OF THE GOVERNMENT OF JAPAN

RELATING TO CONSTRUCTION PROCUREMENT

Part I General Statement of Policies

I. It has been decided will continue to be the policy of the Government of Japan to invite, through the competitive bidding procedures in the procurement of public works, to treat foreign firms on less favorable than domestic firms, including providing for the introduction of discriminatory measures. The Government of Japan believes that the introduction of competition should be facilitated in major projects procured by municipalities, public utilities. The Government of Japan welcomes the entry of foreign firms into the Japanese market and will, through legislative, administrative and positive steps to promote and facilitate the entry of foreign firms into the Japanese construction market.

II. The Government of Japan decided in May 1988 to introduce the Major Projects Arrangements (MPA) because of the lack of sufficient experience by foreign firms in the Japanese private sector had made it difficult for them to enter into Japanese public works procurement. The goals of the MPA were to promote further familiarization of foreign firms with, and thus to facilitate greater access to, the Japanese construction market. Through participation in the designed public works, some foreign firms have gained, and others are expected to gain, the experience necessary to participate in other projects in Japan.

III. With reference to the policy set forth above and in line with the intention of the MPA, the Government of Japan will continue to pursue reform, to be implemented gradually, of its procurement system of public works in order to lead to further enhancement of competition in its construction market and make its construction market more open to the world. A example of the reform is demonstrated by the March 25, 1991 report jointly concluded by the Ministry of Construction and representatives of the private construction industry, which includes various suggestions for reform of its current procurement system. With the issuance of this report, the Ministry of Construction also announced measures that it will take on its own initiative.

IV. Multilateral discussions are now underway in GATT, which are intended to formulate international rules concerning the procurement system for public works, that would serve as the basis for reform of the procurement system of GATT contracting parties. It is the policy of the Government of Japan to participate actively in such multilateral discussions.

V. Elimination of Bidrigging

It is the policy of the Government of Japan and all commissions in Japan with its direct or indirect control to procure goods and services on the basis of bids submitted in order that it is consistent with the provisions of the Anti-Monopoly Act. The efforts and measures that the Government of Japan has taken and will continue to take in order to eliminate bidrigging are described in Annex A.

VI. Categories of Interest to Foreign Firms

The Government of Japan recognizes that the following specific project categories, including the existence of projects and facilities within such categories, are of particular interest to foreign contractors and suppliers: () in ports; in

- (b) port rbor ;
- (c) ig way ;
- () bri ge ;
- (e) tu el ;
- (f) r ilro ;
- (g) ma tr it y tems;
- () re i e ti l o re i e ti l co tructio , i clu i g but ot limite to, mixe u e evelopme t , ou i g;
- (i) office buil i g ;
- (j) c ool ;
- (k) o pit l ;
- (l) pri o ;
- (m) cultur l ce ter port f cilitie ;
- () urb p rkl ;
- (o) e viro me t l project ;
- (p) Mi k t u L w project ;
- () Re ort L w project .

P rt II--Speci l Me ure

for

Major De ig te Public Work Priv te Project

I. GENERAL APPLICATION OF THE MEASURES

1. De ig te Public Work Priv te Project

() T e Speci l Me ure will be pplie to t e lice i g, r ki g, e ig tio procureme t proce ure for t e major e ig te public work project commi io e by t e gover me t or gover me t-rel te e titie (erei fter referre to " e ig te public project ") for t e K i I ter tio l Airport ot er major project u ert ke by imil r priv te commi io i g e titie (erei fter referre to " e ig te priv te project "), li te o A ex B-1 A ex B-2, re pectively. I t e c e of project commi io e by priv te t ir - ector e titie whic re rel te to t e e ig te public priv te project referre to bove (erei fter "t ir - ector project "), li te o A ex B-3, t e Gover me t of J p i te to e cour get e relev t commi io i g e titie to follow o - i crimi tory procureme t policie provi e i A ex C. T e project li te o A exe B-1, B-2 B-3 (erei fter collectively referre to "li te project ") i clu e itio l project whic were li te , re ult of t e pre e t review, from t o e project commi io e by t e e titie referre to bove, co i eri g t e c tegorie li te i Sectio VI of P rt I bove.

(b) For procureme t of goo , t e Speci l Me ure will be pplie , i t e c e of t e e ig te public project to t o e v lue t 130,000 SDR' or more , i t e c e of e ig te priv te project , to t o e v lue t 30 millio ye or more. For procurme t of co tructio ervice , t e Speci l Me ure will be pplie to t o e v lue t 700 millio ye or more. For procureme t of e ig co ulti g ervice , t e Speci l Me ure will be pplie to t o e v lue t 25 millio ye or more, whic re uire ig -gr e tec ic l ju gme t. For procureme t of combi tio of e ig co ulti g ervice , whic re uire ig -gr e tec ic l ju gme t, wit t e apply, ma uf cturi g /or i t ll tio of goo , t e Speci l Me ure will be pplie to t o e v lue t tot l of 700 millio ye or more. q

(c) The limited period of limited project does not limit or prejudice participation by foreign companies in projects of limited relevance.

2. Periodic Review

Reviews of the Special Measures will be held to examine whether the Special Measures provided for in Part II of the Appendix are serving the intended purpose of facilitating access to the Japanese economy and market. Depending upon the results of the review, the Special Measures may be adjusted, if necessary. In the reviews, the Government of Japan will consider a decision to add to, if necessary, of specific projects, taking into account the preference by the Government of the United States of additional specific projects of interest to U.S. firms. The first review will be held one year after the date hereafter a such evaluation will be made may a review, taking into account the progress made in achieving the intended purpose.

II. MONITORING COMMITTEE

A Monitoring Committee composed of officials of the Ministry of Foreign Affairs, the Ministry of Transportation and the Ministry of Commerce will meet with Japan with officials of the U.S. Embassy in Japan at the request of either side to monitor the implementation of the Special Measures and to resolve problems where possible. Relevant information will be made available upon request. In addition to the members of the Monitoring Committee, officials of the Government will meet at the request of either party to resolve any issue with regard to the Special Measures.

III. INFORMATION ACCESS

1. The provision of information to all procurement, committee members will be made available to firms and contractors.
2. The Government of Japan will provide guidance to committee members to be made available to firms and contractors.
3. A office for Commerce and Market Access and a contact point for each committee member will be established, or will be, established to provide information regarding limited projects of interest.

IV. EFFECTIVE PERIOD OF THE SPECIAL MEASURES

The Special Measures will be effective for the duration of the implementation of the designated public and private projects.

V. RESTRICTIONS (The Section does not apply to designated private projects.)

1. Potential suppliers of designated commodities and services, contractors and goods manufacturers with the committee members of each project. Contractors and service firms may be requested to prepare the results of an official examination of manufacturing, based upon the Commerce and Business Law, a device that they have been duly licensed. A contractor business license will not be required for suppliers of designated commodities and services.
2. Requests will be received approximately three times a year while the Special Measures are effective. Requests will be received annually or more frequently for the effective implementation of the Special Measures. For goods suppliers, all public work projects, requests will be received annually.
3. A general example of the ranking factor has committee members will use for the Appendix D. All of the factors have a committee members will use or ranking related firms will be made available within a specified period.
4. The Government of Japan will hold the examination period for ranking and the procedure has each year and a comparison will follow a ranking procedure, including the use of a ranking application, except in the case of a duly established procedure. A committee members will not require a firm to provide ranking information additional to the information specified in the ranking application. Firms may be requested to update the standard form more than once each year. G

(2) Bids (s s ima s) will b p n d and d d in h p s n f pa i ipan s in h mp i i n h i ag n s a a sp ifi d ime and pla . A n a will b awa d d h bidd (pa i ipan) wh submi s h l wes bid (s s ima) b l w h iling pi s by h mmissi ning ni y (unl ss h s s ima is un as nably l w).

(3) If n bid (s s ima) falls b l w h iling pi , pa i ipan s will b qu s d bid (submi h i final vis d s s ima s) immedia ly. Up n qu s by n mo pa i ipan s, h bidding (submissi n) will b h ld af h (3) woking days.

2. T a k II F P u men f C ns u i n S vi s. (In h as f h Kansai In na i nal Ai p P j , his T a k will b appli d h ns u i n f ai p fa ili i s su h as unways, ap ns and minal buildings.)

(a) Inf ma i n n P p s d P u men

A n i , n aining inf ma i n sp ifi d in Pa ag aph 5(b) b l w, will b publish d in app p ia daily indus ial pap s lis d in Ann x E, advis ha a d signa i n (s l i n) p ss has b n ini ia d f a h n a . In as n n i appli s spli d s, h inf ma i n sp ifi d in Pa ag aph 5(b) b l w will b publish d f a h spli d .

(b) Time P i d

(1) In h as f d signa d publi p j s, h p i d f d signa i n will b 30 days f m h da f h publi a i n f h n i f d in Pa ag aph 2(a) ab v . In as n n i appli s spli d s, h p i d f d signa i n will b 30 days f m h day sp ifi d in h n i f h s a f d signa i n f ha d . P n ial suppli s f ns u i n s vi s may xp ss h i in s in b ing d signa d h mmissi ning ni y wi hin h d adlin s by h mmissi ning ni y. Th d adlin will b in lud d in h n i f d in Pa ag aph 2(a) ab v and will b a l as 18 days f m h da f h n i .

(2) In h as f d signa d p i va p j s, h p i d b w e n publi a i n f h n i f d in pa ag aph 2(a) ab v and h d adlin f appli a i ns will b 30 days, f ll wed by h d lib a i n n h s l i n f pa i ipan s h mp i i n. In as n n i appli s spli d s, h p i d f appli a i n will b gin 30 days f m h day sp ifi d in h n i f a h spli d .

() Explana i n Me ing

Th mmissi ning ni y will s a ime and pla f h me ing a whi h h mmissi ning ni y will xplain h p limina y sp ifi a i ns f ns u i n, in luding quipmen n ain d in su h sp ifi a i ns, and giv fi ms pp uni i s xp ss ns u iv pini ns, and hav h ms i usly nsid d. Th mmissi ning ni y will d id wh h h y sh uld b a p d. C n a s as well as all p n ial sub n a s and suppli s an a nd. Th mmissi ning ni y will p vid , a h ime f h xplana i n me ing, in s d fi ms wi h availabl inf ma i n n quipmen whi h is b in p a d in affix d as a maj l men f - h p j bu n n ain d in h sp ifi a i ns.

(d) Designa i n/ S l i n f Pa i ipan s in h C mp i i n

(1) In h as f d signa d publi p j s, gis d fi ms whi h hav b n ank d f h xp d amoun f h n a f h p j n n d, will b ligibl f d signa i n.

(2) All f h i ia ha a mmissi ning ni y will us d signa (s l) fi ms will b publish d in h n i f d in Pa ag aph 2(a) ab v , h wis mad availabl in wri ing in s d fi ms. Th mmissi ning ni y will n apply h d signa i n (s l i n) i ia in a mann ha wou d disadvan ag f ign fi ms.

(3) Th mmissi ning ni y will n ify s l d fi ms ha h y hav b n d signa d (s l d pa i ipa) and als publish a lis f su h fi ms in app p ia daily indus ial pap s lis d in Ann x E.

(4) C n u n ly wi h h publi a i n f h n i f d signa i n (s l i n), inf ma i n su h as ms and ndi i ns fa n a and h sp ifi a i ns will b mad availabl a h mmissi ning ni y's ffi su h -

other place specified in the notice. Potential supplier may obtain (or purchase in the case of designated private projects) a copy of the procurement information upon request.

(e) Bidding and Award of Contract

(1) The period between designation (or election of participant) and bidding (or the submission of offers) will be 40 days (60 days in the case of designated private projects) from the date of the publication of the invitation to bidders, pursuant to Paragraph 2(d)(3) above.

(2) Bids (or offers) will be opened and recorded in the presence of participants in the competition or their representative and place. A contract will be awarded to the bidder (or participant) who submits the lowest bid below the ceiling price set by the competition entity. If the bid is exceedingly low, it may be examined to ensure that it is reasonable.

(3) If no bid (or offer) is below the ceiling price, participants will be requested to re-bid (or to resubmit their revised offer) immediately. Upon request by one or more participants, the re-bidding (or resubmission) will be held after three (3) working days.

3. Track III--For Procurement of Design and Consulting Services.

(1) Information on Proposed Procurement

A notice containing information specified in Paragraph 5(b) below will be published in appropriate industry or professional trade journals to advise that the designation (or election) process has been initiated in accordance with the order.

(b) Time Period

(1) In the case of designated public projects, the period of designation will be 30 days from the date of publication of the notice referred to in Paragraph 3(1) above. Potential supplier of design and consulting services may express their interest in being designated to the competition entity within the deadline set by the competition entity. The deadline will be included in the notice referred to in Paragraph 3(1) above and will be at least 8 days from the date of the notice.

(2) In the case of designated private projects, the period between publication of the notice referred to in Paragraph 3(1) above and the deadline for participation will be 30 days, followed by the deliberation on the election of participant to the competition.

(3) Publication and Distribution of Procurement Information

Concurrently with the publication of the notice referred to in Paragraph 3(1) above, information including participation will be made available to the competition entity or other place specified in the notice. Potential supplier may obtain (or purchase in the case of designated private projects) a copy of the procurement information upon request.

(d) Designation/Selection of Participant in the Competition

(1) All of the criteria that the competition entity will use to designate (or elect) firms will be published in the notice referred to in Paragraph 3(1) above, or otherwise made available in writing to interested firms. The competition entity will not apply the designation (or election) criteria in a manner that would disadvantage foreign firms.

(2) The competition entity will not require firms that they are designated (or elected to participate) and who publish invitation to bidders in appropriate industry or professional trade journals in Annex E.

(e) Submission of Proposal

Designated (or elected) firms will submit detailed unpriced technical proposal within 30 days (40 days for pre-design technical proposal in the case of designated private projects) of publication of the invitation to designate (or elect) firms, pursuant to Paragraph 3(d)(2) above.

(f) Selection of proposal

(1) In the case of design and public projects, a Screening Committee will be formed for each specific order and the Committee will evaluate the technical proposals submitted, ensure that each technical proposal meets the technical specifications established by the Committee. The Committee will evaluate each proposal with the firm which submits the best technical proposal, a proposal which is below the competitive price set by the Committee. The Committee will evaluate each proposal with the firm which submits the best technical proposal, a proposal below the competitive price, the Committee will determine the award with the firm awarded under the award with the firm submitting the best technical proposal has met the technical specifications. This selection procedure is subject to the provisions of the laws and regulations.

(2) In the case of design and private projects, a Screening Committee will be formed for each specific order and the Committee will first evaluate the pre-qualified technical proposals submitted. The Committee will evaluate the Committee will determine the pre-qualified proposals comprehensively, based on the technical and price merits, awarding the contract to the firm which submits the best proposal. The Committee will evaluate the terms and conditions of the contract with the firm which submitted the best proposal.

4 Track IV--For procurement of a Contract for Design and Consulting Services with the Supply, Manufacturing and/or Installation of Goods (The following procedures will be implemented while ensuring compliance with the requirements of the Contract in the case of projects covered by the Contract)

(a) Application

The following procedures may be used for procurement of a Contract for design and consulting services, requiring high-grade technical judgment, with the supply, manufacturing and/or installation of goods, valued at a minimum of 700 million yen or more and where:

(1) the contract award can be made solely on the basis of price, and

(2) the appropriate procurement methods for services separately under Track I, II or III

(b) Information provided for procurement

After completion of the information specified in paragraph 5(b) below will be published and approved daily through the newspaper. The Executive Director has a design (or selection) process has been established for each order. In case the application is submitted, the information specified in paragraph 5(b) will be published for each applicant.

(c) Tender

(1) In the case of design and public projects, the period between the publication of the description in paragraph 4(b) above and design will be 30 days from the date of the publication. The potential suppliers may express their interest by design and the Committee will evaluate each proposal with the deadline set by the Committee. The deadline will be included in the description referred to in paragraph 4(b) above and will be at least 18 days from the date of the publication of the description.

(2) In the case of design and private projects, the period between the publication of the description referred to in paragraph 4(b) above and the deadline for application will be 30 days, followed by the determination of the selection of the participants in the competition.

(d) Publication and Distribution of Procurement Information

Currently with the publication of the description referred to in paragraph 4(b) above, the information including the terms and conditions of the contract, a list of the specific procurement and performance requirements will be made available to the Committee. The Committee will evaluate each proposal with the firm which submits the best proposal (or purchase the case of design and private projects) such procurement information requests.

(e) Explanation of the Specific Procurement and the Selection of Participants.

The committee will establish a place for an explanation in which it will outline the specific procurement and performance requirements, and invite firms the opportunity to express constructive opinions, and have them seriously considered. The committee will decide whether they should be accepted. Contractor as well as all potential subcontractor and supplier candidates.

(f) Designation of Participants in the Competition

(1) All of the criteria for a committee will include domestic (or elected) firms will be published in the notice referred to in Paragraph 4(b) above, or otherwise made available in writing to interested firms. The committee will also apply the designation (or election) criteria in a manner that would disadvantage foreign firms.

(2) The committee will only if firms have been designated (or elected) participants in the competition) a detailed public hearing of such firms in the appropriate daily industrial paper listed in Annex E.

() Explanation Meeting for Designated (or Selected) Participants on the Guidelines for Making Detailed Technical Proposal

The committee will establish a place for the meeting in which it will explain the evaluation factors, the weight assigned to each technical evaluation factor and the relative importance of price in relation to the combined weight of the technical evaluation factors, and how to prepare detailed technical proposal.

(h) Period for Submission of Technical Proposal

The committee will allow 40 days from publication of the list of designated (or elected) firms, pursuant to Paragraph 4(f)(2) above for designation (or election) firms to submit technical and price proposal.

(i) Evaluation of Proposal and Award of Contractor

(1) Firms will be required to submit technical proposal and price proposal in separate sealed envelopes. The committee will open the price proposal prior to the public opening of the price proposal. Upon receipt of the technical proposal, the committee will evaluate the technical proposal based on the evaluation factors specified in the notice referred to in Paragraph 4(b) above.

(2) In the case of designated private project, during the technical evaluation, the committee will inform each offeror in writing or orally, if confirmed in writing, of any deficiencies in technical proposal and request clarification and provide each with a fair and equal opportunity to submit revised technical and price proposal in separate sealed envelopes by a specified commencing date, address the deficiencies identified and the clarification requested by the committee. The committee will then complete the technical evaluation.

(3) The committee will invite all firms with technically acceptable proposal to attend the public opening of the price proposal. At the same time, it will notify the firms whose technical proposal were found to be unacceptable.

(4) The committee will then open all of the price proposal submitted by firms with acceptable technical proposal in the presence of the participants in the competition or their representatives at the established place specified for the public opening, and a data source and record the result. At the same time and place, the price proposal are publicly opened, the committee will publicly announce the overall technical evaluation score and detailed score for each technical evaluation factor for each firm has submitted an acceptable technical proposal, with the identification of such firms. At the same time, each firm will be provided in writing with its overall technical evaluation score and detailed score for each technical evaluation factor.

(5) The final election based on the technical and price proposal will be made with reasonable promptness, and an award of the contract will be made to the firm which submitted the best overall proposal, in terms of the technical evaluation factor and price, as specified in the notice referred to in Paragraph 4(b) above. In the case of designated private project, the committee will evaluate the firms and conduct of the contract with the firm which submitted the best overall proposal. In the case of designated public project, a contract will be /

awarded to the bidder who submits the best overall proposal with a bid below the ceiling price set by the commissioning entity.

(6) Upon request an explanation meeting will be held to explain the evaluation process.

5. Requirement Applicable to Rack I-IV

(a) Each commissioning entity will establish a contact point for the firms which are interested in participating in the designated project.

(b) The following information will be provided in a notice in appropriate daily industrial paper included in Annex E, which advertises the designation (or selection) process as been stated:

(1) A general description of the procurement and, in the case of Rack II, a reference description of the preliminary specification, and, in the case of Rack IV, a summary of the performance requirement.

(2) Identification of the procurement procedure to be used (Rack I, II, III or IV);

(3) All of the designation (or selection) criteria that will be applied in that procurement, or a contact point where interested firms may obtain a copy of such criteria;

(4) All evaluation factors, for Rack III or IV are to be used;

(5) The period between notice of invitation of designation (or selection) process and designation (or deadline for application);

(6) How to submit a technical proposal;

(7) Contact point, how to indicate interest in designation (or selection);

(8) How to obtain specification and, in the case of Rack II, the preliminary specification;

(9) Date and place of delivery of goods or performance of service;

(10) Description of the designation (or selection) process, including how participants in the competition and contractor are determined; when they are determined; how they are notified and in which industrial paper participants in the competition will be listed;

(11) In the case of Rack II and IV, the date and place of explanation meeting for interested firms on procurement information (which for Rack II will include the preliminary specification for contract, as well as the equipment contained in such specification, and for Rack IV will include the outline of the specification for procurement and performance requirement) and information on how the firms can express their opinion; and

(12) Other items which are judged necessary.

(13) The following information will be written in English in the notice:

a. Subject matter of the procurement,

b. The time limit for indicating interest in the designated (or bidding application) and for bidding a technical proposal, and

c. Address of contact point (or, in the case of designated private project, how to obtain application forms).

(c) In the notice described in Paragraph 5(b) above, information regarding the specific type of work that indicate required capabilities will be included. Such information will be provided in sufficient detail to enable a potential bidder to assess whether there is a reasonable likelihood that a technical capability is required for designation (or selection).

(d) Post-Designation (or Selection) and Post-Award Information and Notification of Offeror To

() Po e i l supplie s e fi ms whose di e e o omi i e es would be ffe ed by he wad of, o he f ilu e
o wad, o .I he se of desig ed publi p oje s, depe di go he s ge of he p o u eme , 2
po e i l supplie s me hose fi ms whi h h ve pplied fo ki g, h ve exp esed i e es o he

commissioning n i in ing signa or hav n signa . In h cas of signa priva proj c s, po n ial suppli rs mean hos firms ha hav appli for s l c ion.

() Th n i , h complainan an an o h r po n ial suppli rs ma participa in a complain proc ing provi an such po n ial suppli r no ifi s h Boar of such in n wi hin s v n (7) a saf r r c ip of h no ic in aragraph 4(f) low, an wh r upon h woul su j c o h proc ur s in aragraph 4(i)(2) low, unl ss arr aragraph 4() low.

4. rocur men R vi w roc ss

(a) A po n ial suppli r ha li v s a procur men has n carri ou in a mann r inconsis n wi h an provision of h s Sp cial M easur s ma fil a complain in wri ing wi h h n i of an all g inconsis nc wi h h s M easur s a an ime uring h procur men proc ss, u no la r han 10 a saf r h asis of h complain is known or r asona l shoul hav n known.

() Th n i will r spon in wri ing o a complainan wi hin 10 a s from h a of filing.

(c) If h complain is no r solv h n i , h complainan ma fil h complain wi h h Boar wi hin 7 a saf r r c iving h r spons r f rr o in aragraph 4() a ov . Th po n ial suppli r will su mi a cop of h complain o h n i wi hin on (1) working a of filing i wi h h Boar . (Da s will consi r cal n ar a s unl ss o h rwis sp cifi .)

() Th Boar ma consi r a complain , v n hough no imel fil , if i fin s ha goo caus is shown.

() Th Boar will r vi w a complain wi hin s v n (7) a s of i s filing an ma , in wri ing an wi h r asons giv n, ismiss an complain foun o :

(1) no su mi in a imel mann r;

(2) no su j c o h s Sp cial M easur s;

(3) frivolous or rivial on i s fac ;

(4) no su mi a po n ial suppli r; or

(5) o h rwis inappropria for r vi w h Boar .

(f) Wh r h Boar rmin s ha a complain has n fil prop rl , i will no if in wri ing all po n ial suppli rs of h complain wi hin on (1) a .

(g) Susp nsion of Awar or rocur men roc ss

(1) Wi hin 10 a s of h filing of a pr -awar complain , h Boar will promp l issu a wri n r qu s for susp nsion of h procur men proc ss p n ing r solu ion of h complain .

(2) In h cas of a pos -awar complain , fil wi hin 10 a saf r h awar , h Boar will promp l r qu s in wri ing susp nsion of p rformanc of h con rac p n ing r solu ion of h complain .

(3) Th n i will susp n h procur men proc ss or p rformanc of h con rac imme ia l af r i r c iv s h Boar 's r qu s , unl ss h h a of h n i rmin s ha urg n an comp lling circums anc s o no allow h n i o follow h r qu s , in which cas h will imme ia l provi wri n no ifica ion o h Boar of his rmina ion an h fac ual circums anc s on which i is as .

(h) Inv s iga ion

(1) Th Boar will con uc an inv s iga ion of h complain , which ma inclu h filing of ri fs, pl a ings an o h r ocumen a ion h complainan an n i .

(2) Th Boar ma , on h r qu s of h complainan or n i or on h Boar 's own ini ia iv , hol a h aring on P h meri s of a complain .

(i) Entity t

(1) Within 14 days after the day on which a copy of the complaint was sent to the entity, it will file with the Board a written statement on the complaint, containing the following:

(a) the identifying document, including the specifications of the facts relevant to the complaint

(b) all the documents relevant to the complaint

(c) a statement that sets out all relevant facts, findings, actions and recommendations of the entity and sends fully to all allegations of the complaint and

(d) any additional evidence information that may be necessary in order to solve the complaint.

(2) The Board will, forthwith after receiving the request for a hearing in Paragraph 4(i)(1) above, send a copy of the relevant material to the complainant and give the complainant an opportunity, within seven (7) days after it receives the relevant material, to file with the Board comments requesting that the case be decided on the existing record. The Board will, forthwith after receiving the comments, send a copy to the entity.

5. Findings and recommendations

(a) The Board will make a request for its findings and recommendations to the entity within 50 days after the day on which the complaint is filed. Its findings, in which the Board will grant or deny the complaint in whole or in part, will specify whether the document assessed was inconsistent with specific provisions of the Social Measures.

(b) When the Board finds evidence of misconduct, actions or behavior contrary to law, it will forthwith matter to the appropriate competent authority for action.

(c) In making its findings and recommendations, the Board will consider all the circumstances surrounding the document assessed, including the seriousness of any deficiency in the document assessed, the degree of judicial responsibility, the integrity and effectiveness of the Social Measures, the good faith of the participants and the extent of the management of the entity which the document relates to.

(d) When the Board finds that any provision of the Social Measures has not been analyzed, it may recommend an appropriate remedy, including the following:

(1) that an investigation be issued

(2) that necessary corrective action be sought

(3) that the relevant body be revalued

(4); that the corrective action be taken through the relevant body

(5) that the corrective action be terminated.

() The Board will send its findings in writing with its recommendations to the complainant, the entity and any participants, within one (1) working day after issuance.

(f) The findings of the Board on any complaint brought against it will be duly followed, as a matter of principle, by the relevant entity as its own decision.

(g) The Board will send the external inquiry concerning its findings.

6. Expenses

(a) When the complainant entity requests in writing an external handling of a complaint, the Board will consider the feasibility of using the funds set out in this section, for that purpose in the "expenses" ;

that such it^{ms} as c it ati gs, co^{mp}l t co t acts a quip t op atio s a ot l va t to th
qui ts fo th lic s , a will ot b us .

4. Th sta a p oc ssi g p io)fo th issua c of a lic s by th Mi ist of Co st uctio will b b twe
th (3 a fou (4^{mo} ths. As fo th lic s issu by a P f ctu al Gov o , th o i a y p oc ssi g p io
will b b twe o (1 a two (2^{mo} ths. Fo both typ s of lic s s, aft 90 ays, upo qu st, th
applica t will c iv f o^m th Mi ist y of Co st uctio a xpla atio of th status of his applicatio .

5. To obtai a co st uctio lic s f o^m th Mi ist of Co st uctio o a p f ctu al gov o , p io xp i c i
Japa is ot qui .

XI. EVALUATION OF THE WORLDWIDE BUSINESS ACTIVITIES OF FOREIGN FIRMS

I valuati g a fo ig fi^m fo pu pos s of a ki go sig atio (o s l ctio , co ssio i g titi s will t at
th sults of a i qui y i to th fi s xp i c a t ch ical co^{mp} t c acqui i a fo ig cou t y as
quival t to xp i c a t ch ical co^{mp} t c acqui i Japa .

XII. JOINT VENTURES

1. Joi t v tu s a utiliz o ly i' c tai la g scal p oj cts; a th y a ot qui as a^{ma}tt of
Japa s law.

2. Whil th co ssio i g tity^{ma} y sp cify th app op iat u^{mb} of co^{mp}a i s that^{ma} y pa ticipat i a
joi t v tu i such p oj cts, th co ssio i g tity will ot t^{mi} th sha of a y co^{mp}a y i th joi t
v tu o th s g t of th p oj ct that a y co^{mp}a y will u tak .

3. I t^{mi} i^{ma} th qualificatio s of a applica t a i awa i g a co t act, co ssio i g titi s will t at
applica ts o l ss favo ably wh a fo ig fi^m is th p i co t acto o wh o o^{mo} joi t v tu
pat sa fo ig fi^{ms}.

XIII. SUBCONTRACTING

1. Th Gov) t of Japa will cou ag app op iat busi ss co st uctio co t acto associatio s to p ovi ,
upo qu st, i t st fi^{ms} with i fo^{ma}tio i latio to subco t acti g oppo tu iti s.

2. Wh Tack II is us , i th otic of th)p ocu t, th co ssio i g tity will i clu i fo^{ma}tio
ga i g th^{ma} jo goo s a s vic s to b p ocu by th g al co t acto o a subco t acto fo us i
that p oj ct.

3. At a xpla atio ti g, th co ssio i g tity will p ovi^{mi} pot tial suppli s with i fo^{ma}tio which
i clu s th p li^{mi} a y sp cificatio s, wh availabl , of th^{ma} jo goo s a s vic s to b p ocu by a
g al co t acto o subco t acto .

4. Wh a pot tial suppli is ot awa th co t acto subco t act to supply such goo s o s vic s, th
suppli will fi st s ka xpla atio fo th g al co t acto o subco t acto . Wh th suppli is ot
satisfi with that xpla atio , th co ssio i g tity will, upo qu st, cou ag th g al co t acto o
subco t acto to p ovi a fu th xpla atio .

5. I t^{mi} i^{ma} th qualificatio s of a applica t a i awa i g a co t act, co ssio i g titi s will t at
applica ts o l ss favo ably wh o^{mo} subco t acto s a fo ig fi^{ms}.

XIV. CORPORATE FORM OF FOREIGN FIRMS

1. Fo ig fi^{ms} will b allowe to pa ticipat i p ocu ts of list p oj cts^{mi} i ss of th fo^m of th i
co po at p s c i Japa if th followi g co itio s a t. Wh) a fo ig fi^m stablish s a subsi a y i
acco a c with Japa s laws, it will stablish a b a ch to qualify as a fo ig fi^m fo pu pos s of th Sp cial
Measu s. Th Gov) t of Japa will facilitat this p oc ss, if c ssa y. A b a ch so stablish will b abl
to us th sa p so l, quip t a offic s as th subsi a y fo pu pos s of lic si g, gist atio ,)
sig atio a p oj ct i l tatio , co sist t with l va t Japa s laws.

2. In a joint venture, the foreign partner represents and acts as a foreign company.

Annexes:

A Measures to Prevent Bidrigging

B Listed Projects: B1 Design and Public Projects

B2 Design and Private Projects

B3 Third Sector Projects

C General Policy Statement Regarding Procedures by Private and Third Sector Entities

D Factors for Ranking

E Daily Industrial Papers

ANNEX A

MEASURES TO PREVENT BIDRIGGING

The Government of Japan has taken and will continue to take the following measures and efforts to eliminate bidrigging:

1. Commissioning agencies shall rigorously deal with all bidrigging cases, and will more rigorously apply against firms found to have engaged in such bidrigging administrative measures, including suspension from designation, harassment and other measures.
2. Commissioning agencies will increase their vigilance against bidrigging activities in all of their procedures, and will on their own judgment report relevant information regarding such activities to the Fair Trade Commission (FTC). In the National Coordinating Committee for Implementation of Public Works Contract Procedures (NCC), commissioning agencies will clearly decide to observe the above-mentioned policies; and, their Procedures Review Board will also report relevant information regarding bidrigging to the FTC.
3. The FTC will enforce the Anti-monopoly Act strictly against bidrigging in all industries, and punishing the relevant information regarding bidrigging activities, the FTC will take appropriate steps, depending upon the content and reliability of the information. Although many formal actions are taken by the FTC, the contents, including the names of the offenders, the nature of the offenses and circumstances surrounding them, all formal actions taken, such as recommendations and surcharge payment orders will be made public. Warnings will also be made public to other than the specific cases.
4. In order to strengthen administrative procedures and sanctions against bidrigging, the Government of Japan has taken, or will take, the steps described as follows:
 - a. The NCC has revised its model guidelines on designation suspension, extending the period of suspension and expanding the scope of application of suspension in cases of Anti-monopoly Act violations. Through these revisions, the minimum period of designation suspension has been doubled and the suspension of designation will be applied on a nationwide basis and no jurisdictional special considerations will be taken.
 - b. In accordance with the NCC revised guidelines, government agencies and public corporations have revised their guidelines on designation suspension.
5. In order to effectively prevent bidrigging, the Government of Japan will ensure that the following measures are implemented with respect to public works procedures:
 - a. The explanation document provided to the explanation meeting includes a statement of the illegal prohibitions against collusion activities and disclosure of conflicts of interest to any activities that violate the Anti-monopoly Act; -

b. The guarantee for the foregoing will stand only to the extent that the offeror has not obtained any other rights in the subject matter from any other source. If the offeror obtains any other rights in the subject matter from any other source, the offeror shall be deemed to have breached the foregoing.

c. The offeror shall be required to submit with its bid a security deposit in the amount of \$100,000.00. The security deposit shall be used to pay any costs incurred by the City in connection with the project. If the offeror fails to submit the security deposit, the City shall be deemed to have rejected the bid.

ANNEX B-1

DESIGNATED PUBLIC PROJECTS

Projects Listed 1988

- o H. E. Airport Expansion Phase III (FY 90-95)
- o New Hiroshima Airport (FY 86-93)
- o Tokyo Port Redevelopment (Metropolitan Expressway 12) (FY 84-)
- o Akashi-Kyoto Bridge (to be completed by FY 97)
- o Ise Bay Highway (to be completed by FY 96)
- o Yokohama Minato Mirai 21 (Major Hall of Intercontinental Conference Center, International Port Authority)
- o Kansai Sea City (International Conference Center, Center for Graduate Studies, Avenue of Science and Technology) (FY 88-)

Projects Added 1991

- o New Chitose Airport Phase III (to be completed by FY 2000)
- o Kurushima Bridge (to be completed by FY 98)
- o M. Kuroh High Rise Apartment (FY 92-) (tentative)
- o New Noto Interchange (FY 91-96) (tentative)
- o Kansai Noto Interchange (tentative)
- o Noto Olympic Memorial Youth Center (FY 91-94)
- o Post Island Nankoku Rikyu Resort Facilities (FY 91-96)
- o Research Center for Aging Health* (tentative)
- o Social Insurance Hospital (Koto) (FY 91-93)
- o Tokyo University of Foreign Studies*
- o Noto Institute of Polar Research, The Institute of Statistical Mathematics, Noto Institute of Japanese Literature*
- o Synchrotron Radiation Facility (SPR-8) (Hyogo) (to be completed by 1998) (Electron Storage Ring Building [Phase I] related facilities)

* when feasible

ANNEX B-2

DESIGNATED PRIVATE PROJECTS x

Projects ste 1987-88

o Ka sa I ter at o al A rport

o Tra s-Tokyo Bay High y

o N ppo Telegraph a aTelepho e Corporat o (NTT) Sh juku Bu l g

ANNEX B-3

THIRD-SECTOR PROJECTS

Projects ste 1987-88

o Tech oport Osaka

o Rokko Isla **

o Ha e a A rport Termi al Co struct o (Phase II)

o Ha e a A rport Termi al Co struct o (Phase III)

o Ne H rosh ma A rport Termi al Co struct o

o Ne K takyushu A rport Termi al Co struct o *

o Tokyo Teleport

o Yokohama Mi ato Mira 21 (I ter at o al Co fere ce Ce ter)

Projects A we 1991

o Import I tegrate Termi al Yokohama Da koku P er (te tat ve ame)** w

o R ku Gate To r Bu l g

o Se a A rport Termi al Bu l g for I ter at o al Passe gers

o Ne Ch tose A rport Termi al Co struct o (Phase III)* w

o JR Kyoto Stat o Re evelopme t

o JR Ue o Stat o Re evelopme t*

* he a f tate

** he a f th r -sector major projects u er these pla s emerge

ANNEX C

GENERAL POLICY STATEMENT REGARDING PROCUREMENTS

BY PRIVATE AND THIRD-SECTOR ENTITIES

It s the pol cy of the Gover me t of Japa that all major publ c rks projects ll be co ucte accor a ce th Japa ese la a regulat o s u er o - scr mi atory procureme t proce ures. Recog z g the mutual be fts er ve from ter at o al compet o co struct o s@rv ces a relate equ pme t, some orga zat o s ha e alrea y ssue pol cy stateme ts, as attache hereto, to e sure fore g access to co crete commerc al opportu tes assoc ate th spec f c project compo e ts through ope , tra spare t, a o - scr mi atory procureme t pol ces clu g proce ures. The Gover me t of Japa fully supports such steps. The Gover me t of Japa has o author ty to mpose legal requ reme ts o pr vate a th r -sector e ttes carry g out the r major projects, but t ll act vely e courage those e ttes lste A ex B-3 to take steps to e sure that procureme t pol ces clu g proce ures prov e compet ve opportu tes to fore g a omest c supplers thout scr mi at o . The Japa ese Gover me t fully expects that such e ttes ll follo pract ces w

based on the commercial factors as a part of their procurement policies. As found in the attachments, this would include:

- establishing contact points to facilitate entry of foreign firms;
- making the master plan and final designs and specifications available to potential suppliers;
- providing opportunities to explain and discuss specifications in advance;
- allowing reasonable time to submit quotes;
- setting performance related standards and specifications where appropriate;
- making specific qualifications and procurement criteria available to potential suppliers in advance; and
- using international recognized commercial practices.

The attached policy statements by Japan Air Transport Co., Ltd. and Pacific Convention Plaza YOKOHAMA serve as examples for private and third-sector entities listed in Annex B-3. The Japanese Government expects that these entities will follow this example. In the case of airports shown in Annex B, the Government of Japan will see that the above-mentioned points are followed.

March 20, 1988

POLICY STATEMENT

On the Procurement of Goods and Services for the Construction of International Conference Center in relation to Yokohama Minato Mirai 21 Project

Fumio Takagi

President

Pacific Convention Plaza YOKOHAMA

Our company welcomes participation by foreign companies in the procurement of major goods and services for the international conference center (i.e. conference hall and hotel building), for which our company is the commissioning entity. Foreign companies will be treated no less favorably than Japanese companies in any respect. Our company will implement the following measures which should enhance competitive opportunities for foreign companies wishing to do business with us.

It may be added that in order to meet the time schedule for the opening of the center in the spring of 1991, this project needs to be carried out in an efficient and prompt manner. This being the case, companies participating in the project, whether it is foreign or Japanese, are required to comply with such time schedule of the project.

Our company will announce in a timely fashion a business opportunities regarding the said procurement and, specify how to obtain relevant drawings and a project master plan showing the work sequence on a time scale. A contact point will be established in order to facilitate entry of foreign companies. Our company will provide opportunities to explain and discuss with interested suppliers specifications and, disclose any necessary specific qualifications to be satisfied by our company for selection. In all cases, a reasonable time period will be allowed to accommodate foreign suppliers. Our company will use internationally recognized commercial practices and performance-based specifications and standards where appropriate. Our company will base its selection on the commercial considerations such as price, quality, delivery and after-sale services.

March 20, 1988

POLICY STATEMENT

On the Procurement of Goods and Services for the Terminal Building of the Tokyo International Airport (HANEDA) Extension Project

Hisao Taka as i

si nt an C ai man

of t Boa of Di cto s

wi

Japan Ai po t T minal Co., Lt .

T Japan Ai po t T minal Co., Lt . is un taking t const uction of t t minal buil ing t t p ima y obj ctiv of n ancing ai po t us s' conv ni nc an of nsu ing ai po t saf ty, in pa all l t t p og ss of t Tokyo Int national Ai po t Expansion oj ct, ic n s to b compl t as soon as possibl .

Ou company lcomes pa ticipation by fo ign compani s in t p ocu ment of majo goo s an s vic s fo t t minal buil ing in acco anc t t p inci pl s of conomic ationalism as a p ivat nt p is . Fo ign compani s ll b t at no l ss favo ably t an Japan s compani s in any sp ct.

Ou company ll announc in a timely fas ion all busin ss oppo tuniti s an , sp cify o to obtain l vant a ings an a p oj ct mast plan s o ng t k s qu nc on a time scal . "Int national Busin ss Offic " ll b stabli t i w pu company as a contact point to facilitat fo ign company acc ss to t s ocuments. Ou company ll xplain ah iscus t all int st pot ntial suppli s sp cifications an , i isclos any n c ssa y suppli qualifications to b us by ou company fo suppli s l ction. In all cas s, a asonabl time p io ll b allo to accommod at fo ign suppli s. Ou company ll us int nationally cogniz comme cial p actic s an p fo manc -bas sp cifications an stan a s v app op iat . In all cas s, ou company ll bas its l ction on pu ly comme cial consi ations suc as p ic , quality, liv y, an post-sal s vic s.

ANNEX D

FACTORS FOR RANKING

1. Facto s us by commissioning ntiti s fo anking a , in g n al, as follo :

(1) Annual av ag valu of compl t const uction ks in t fi l of int s st to t fi m;

(2) N t t ; o

(3) Numb of staff memb s o a ngag in const uction busin ss;

(4) Busin ss con ition

o ofitability (o ina y p ofit atio of valu of compl t const uction ks, o ina y p ofit atio of total liabiliti s an n t t , atio of b ak- v n point),

o Liqui ity (cu nt atio, quick atio, mont of p oc ssing king capital), o

o o uctivity (loga it m of valu of compl t const uction ks p capita. Loga it m of a valu p capita; loga it m of total liabiliti s an n t t p capita), an

o Stability (fix atio, atio of n t t , atio of fix liabiliti s to n t t); o

(5) Numb of t c nical staff memb s; w o

(6) Numb of y a s in busin ss;

(7) Const uction p fo manc ;

(8) Exp i nc in sp cial const uction;

(9) Saf ty p fo manc in const uction; an

(10) Stat of labo lfa .

2. Weig ts fo ac facto w

Evaluation of the results, in general, as follows:

[Calculation formula]

(1) $x \times [(2) + (3) + (4) + (5) + (6)] + (7) + (8) + (9) + (10)$

70 40 55

[Range of values for each item]

(1) 178 ~ 14 (2) 120 ~ 60 (3) 60 ~ 0 (4) 184 ~ 0

(5) 200 ~ 26 (6) 50 ~ 10 (7) 675 ~ - 00 (8) 200 ~ 0 3

(9) 0 ~ -15 (10) 5 ~ -(15a + 5b)

a: Number of cases of unpaid wages by the firm

b: Number of cases of unpaid wages by a subcontractor, where the firm (primary contractor) is responsible

ANNEX E

DAILY INDUSTRIAL PAPERS

I. GOODS--Track I

--Procurement and Designation

Nikka -K s tsu-Kogyo-S i^{mb}_u 3

Nikka -K s tsu-Tsus i

Nikka -K s tsu-Sa gyo-S i^{mb}_u 3

II. CONSTRUCTION--Track II

--Procurement and Designation

Nikka -K s tsu-Kogyo-S i^{mb}_u

Nikka -K s tsu-Tsus i

Nikka -K s tsu-Sa gyo-S i^{mb}_u

III. CONSULTING SERVICES--Track III 3

--Procurement and Designation

Nikka -K s tsu-Kogyo-S i^{mb}_u 3

Nikka -K s tsu-Tsus i

Nikka -K s tsu-Sa gyo-S i^{mb}_u

IV. COMBINATION PROCUREMENTS--Track IV 3

--Procurement and Designation

Nikka -K s tsu-Kogyo-S i^{mb}_u

Nikka -K s tsu-Tsus i

Nikka -K s tsu-Sa gyo-S i^{mb}_u

EMBASSY OF JAPAN

WASHINGTON, D. C. 3

July 31, 2011

Subject: Mosb ch :

In addition to the expansion of the project coverage under the Major Projects Arrangements discussed in the Japan-U.S. Constitution Review Meeting of May 11, the Government of Japan wishes to inform the United States Government of its view with regard to the following specific projects of interest to U.S. firms.

1. Fukuoka Airport Terminal Building (West)

The official decision has not yet been made on the construction of this project, because the main savings in problems to be solved are based upon the consensus with the local community such as in the case of the official decision is made on construction of the project in the future, the Government of Japan will place this project to the MPA project list.

2. Chubu International Airport

The local community has initiated the investigation for this project. The Government, however, has a number of issues which need to be settled, including, among others, those of the necessity of such an airport itself, its capacity, the impact on the environment of cost-sharing, maintenance of profitability, the acceptance by, and the consensus of, the local community. Therefore, no decision has been made as to whether such an airport should be constructed or not.

If the construction of this project becomes feasible in the official decision is made on the construction of the project in the future, the Government of Japan will place the project to the MPA project list.

3. Fukushima Airport

The Government of Japan does not have any plan to sign the Fukushima Airport Form Type III airport agreement by the local authority to Type II airport by the national government. If the official decision should be made on the expansion of the Airport of Type II in the future, the Government of Japan will place this project to the MPA project list.

4. Saitama New Airport

The existing issues for construction at this moment including colossal, exhibition hall, and consolidated government office buildings. The basic plan for Saitama New Airport I, however, has not yet been formulated, and in addition the disposition of the land in the center of the project is not yet decided. Therefore, no commissioning of the project has been decided. If specific projects within Saitama New Airport I should be materialized in the future, the Government of Japan will consider including them to the MPA project list.

5. Saitama New International Library

A decision of the Government is required to initiate this project. The preliminary study period for the decision is currently being conducted on the necessity of this type of library and on the selection of the site. When the decision of the Government is made in the future, the Government of Japan will place the project to the MPA project list, subject to the approval of the Government.

6. Minami-Aoyama NTT Project

It is difficult to anticipate, at this stage, when this project will take place basically due to the objection by the local community. The Government of Japan, however, will place this project to the MPA project list, when the construction of this project becomes feasible in the plan for the project is approved.

NTT has no plans, in the foreseeable future, for construction of new building or replacement of existing buildings with new ones, other than this project.

JR Projects

The Government of Japan does not intend to include any JR project in the project coverage under the MPA, the initiation of which takes place after the completion of the privatization of the JRs concerned.

It is the view of the Government of Japan that, by the time the Ueno Station project is initiated, East JR will be completely privatized. However, the Government of Japan has, as the only exceptional measure, included this project in the MPA project list despite its basic position as stated above.

Since then,

Ryūhei Murakami

Ambassador Japan

The Honorable

Robert A. Mosbacher

Secretary Committee

Washington, D.C. 20530

EMBASSY OF JAPAN

WASHINGTON, D.C.

July 31, 1991

Dear Secretary Mosbacher :

It is my pleasure to present you with the attached letter from the President of Nippon Telegraph and Telephone Corporation (NTT) to the Vice Minister of Posts and Telecommunications regarding the Minami-Aoyama NTT Project.

This letter informs that when the construction of this project becomes feasible and the plan for the project is approved, the project will be added to the MPA project list and appropriate MPA procedures will be followed, as committed in my July 31 letter to you in relation to the expansion of the project coverage.

Since then,

Ryūhei Murakami

Ambassador Japan

The Honorable

Robert A. Mosbacher

Secretary Committee

Washington, D.C. 20530

Attachment

July 31, 1991

Mr. Taizō Nakamura

Vice Minister

Ministry of Posts

and Telecommunications

Dear Vice Minister Nakamura,

In relation to the expansion of the project coverage under the Major Projects Arrangements (hereinafter referred to as the "MPA") discussed in the Japan-U.S. Construction Review Meeting in May 1991, NTT wishes to state the H

result of the deliberation on Minami-Aoyama NTT Project with full consideration of the importance attached to the Review Meeting mentioned above, as follows

Minami-Aoyama NTT Project is a building construction project, plan of which is made by NTT Urban Development Co., a subsidiary company of NTT. The local residents has not yet been made on this construction project, because there remain some problems to be solved based upon the consensus with the local community.

NTT, however, will follow necessary and appropriate procedures in implementing the project, when the project is approved by the MPA. In the case that the construction of the project becomes easier and the plan for the project is approved by relevant authorities.

Sincerely,

/s/

Masao Kojima

President

Nippon Telegraph

and Telephone Corporation

This is the English translation of the Japanese original dated July 31, 1991

UNITED STATES DEPARTMENT OF COMMERCE

The Under Secretary for International Trade

Washington, D.C. 20230

July 31, 1991

Mr. Saayuk Hayas

Director-General

Economic Affairs Bureau

Ministry of Foreign Affairs

2-2-1 Kasumigaseki

Chiyoda-ku

Tokyo 100, Japan

Dear Mr. Hayas

The satisfactory conclusion of the Major Projects Arrangements review will make an important contribution to the efforts of U.S. firms to gain greater access to the Japanese construction market.

We recognize the Government of Japan's position that action by the U.S. Government to restrict access by Japanese construction firms to U.S. federal government construction projects will result in its suspension of the current Major Projects Arrangements (MPA).

Based upon this recognition, I will be discussing with the U.S. Department of Transportation the current status of its implementation of the Aviation Safety and Capacity Expansion Act of 1990 (Act).

The public interests served by the continued implementation of the current MPA, in my view, could serve as a basis for the Department of Transportation to determine, within the secret provisions of the law, that waivers might be granted with respect to Japanese construction firms and imports. :

It is my intention to inform you of the status of the Department of Transportation's response to my inquiry.

I have to advise you that the Department of Transportation's implementation of the Act will not result in any adverse impact on Japanese activities in U.S. government public works. An impact from the Government of Japan to suspend the activities of the MPA would not be in the interest of the United States.

Sincerely,

J. Michael Fallon

cc: Mr. Takashi Doi, Director, American Department, Ministry of Transportation

Mr. Nobuo Ban, Director-General, Economic Affairs Bureau, Ministry of Construction

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.