

[lick here for the Trade Guide](#)

apan Ports And Harbor Practices Agreement (1997)

United States Department of State

Washington, D.C 20520

NOV 10, 1997

Dear Mr. Chairman:

We would like to report that frank and open discussions regarding Japan's port transport sector took place between representatives of the United States Government and the Government of Japan on October 10-27, 1997, in Washington.

Acting Maritime Administrator John Graykowski led the U.S. delegation and Mr. Satoshi Iwamura, Director General of the Maritime Transport Bureau, Ministry of Transport, led the Japanese delegation. Under Secretary Stuart Eizenstat, Transportation Deputy Secretary Mort Downey, and Japanese Ambassador Kunihiko Saito also joined in the talks.

Enclosed for the Commission's review and action are complete copies of the correspondence between Secretary Albright and Ambassador Saito concerning the arrangements reached by the delegations during these discussions. We are pleased to report that this package represents a reasonable basis to recommend that the Commission compromise all the remaining assessments under Docket No. 96-20 for October and November and suspend further assessments and the requirement for Japanese carriers to report vessel calls.

Discussions with the Government of Japan demonstrate a legitimate need for maintaining the confidentiality of these documents for a reasonable period of time to allow these reforms to be properly implemented in Japan. We ask that the Commission consider the sensitive nature of these documents and our foreign policy interests in facilitating implementation of this agreement.

Secretaries Albright and Slater have expressed their appreciation for the efforts made by all parties to achieve agreement that will lead to meaningful reforms in Japanese

Sincerely,

[signature]

Stuart E. Eizenstat

Under Secretary of State for

Economic, Business and

Agricultural Affairs

Department of State [signature]

John Graykowski

Acting Maritime Administrator

Maritime Administration

Department of Transportation J

THE SECRETAR STATE

SH NGT

November 10, 1997

N

Dear Mr. Ambassador:

I am pleased to confirm receipt of your letter of November 6, 1997, with attachments providing the assurances of the Government of Japan (GOJ) that it will fully implement the measures for meaningful reform of the prior consultation system set out in your letter and those undertaken by the Ministry of Transport in the attachments to that letter consistent with the measures in the Memorandum of Consultation between the Ministry of Transport and the U.S. Department of Transportation on April 11, 1997 (MOC). I

note that the GOJ will in normal course approve applications for licenses within approximately two months of receipt, when such applications satisfy all requirements of the MOC, and has also agreed with relevant private parties on reform of the existing prior consultation system and the creation of an alternative process of prior consultations.

I am particularly gratified at your Government's confirmation that it will enforce its laws and regulations as specified in your letter. These actions, which go to the spirit of the assurance you have provided, include assistance to facilitate the creation of the alternative process of prior consultation and use of GOJ authority under Japanese law to ensure that the operation of this alternative consultation process will be free from illegal outside interference, harassment or retaliation. Mr. Ambassador, we believe such actions can create a solid foundation for reform of Japanese port practices. I will watch with interest your implementation of these measures. I

Our letter confirms the statement on deregulation in the MOC. I would like to reconfirm our strong interest in expeditious deregulation of Japanese port transportation services, particularly deregulation of laws and regulations governing issuance of port transportation business licenses and reiterate our view that complete deregulation should be complete as soon as possible, but no later than December 31, 1998. I look forward to continuing our discussions on deregulation in this area through our Enhance Deregulation initiative.

I have directed Stuart E. Eizenstat, Under Secretary of State for Economic, Business and Agricultural Affairs, in consultation with John Graykowski, Acting Maritime Administrator, to convey the contents of your letter and its attachments to the Federal Maritime Commission (FMC) with a recommendation to compromise all the remaining assessments for October and November. I

When the FMC notifies the Secretary of State of conditions or occurrences relating to port practices in Japan, the Department of State will immediately initiate consultations with the GOJ. The Department of State expects that the GOJ will use its full authority under Japanese law to resolve the problem expeditiously. The Department of State and the Department of Transportation will recommend, unless circumstances require otherwise, that the FMC defer action pursuant to Docket 96-20 to allow sufficient time to permit attempted resolution of the problem through diplomatic channels.

Again, I am pleased that our respective Governments have successfully addressed long-standing issues associated with Japan's port practices. I look forward to working with you in a constructive spirit of cooperation to assure implementation of the measures regarding port services and other critical transportation issues involving our two nations.

Sincerely,

[signature]

Maureen K. Albright

EMBASSY JAPAN

SH NGT , D.C. I

N

November

Dear Mme. Secretary

I am pleased to convey to you the assurance of the Government of Japan (GO) that it will fully implement the measures for meaningful reform of the prior consultation system set out in this letter and those undertaken by the Ministry of Transport (MOT) in the attachments to this letter consistent with the measures in the Memorandum of Consultation between the MOT of Japan and the U.S. Department of Transportation on April (MOC). The GO confirms its commitment to guide all the signatories to the attachments in securing their faithful effective and timely implementation of these reforms.

The GO reaffirms its undertakings on licenses for port transportation business operations contained in the MOC. With regard to licenses for port transportation business the GO will in normal course approve applications for licenses within approximately two months of receipt when such applications satisfy all requirements of the MOC. The GO noted that the applicants' good faith efforts based on their knowledge of the relevant laws and regulations will be necessary to facilitate expeditious processing of these applications. The GO will exert its maximum effort to prevent the unjustifiable denial of services essential to the conduct of any licensed activities.

The prior consultation system is a process to be used when changes in carriers' operations may affect the employment and working conditions of port labor. These changes should be conducted smoothly and fairly to address carriers' and labor's interests. Prior consultation shall not be used as a means to approve carriers' business plans or strategies allocate business among port transportation business operators restrict competition or infringe on the carriers' freedom to select port transport business operators.

The GO emphasizes that private parties are free to enter into contractual arrangements of their choice in accordance with the laws and regulations in Japan and it will enforce laws and regulations to ensure freedom of contract. The GO commits to uphold its responsibility under Japanese law to maintain order with regard to port transportation secure sound development of the port transportation business and promote public welfare. The GO will employ its regulatory authority to ensure that all port enterprises duly licensed under the Port Transportation Business Law faithfully discharge all obligations under that law ,including the prohibition of unjustifiable and discriminatory denial of services by such enterprises. The GO reiterates its commitment to enforce the Labor Relations Adjustment Law ,and further emphasizes that the parties concerned with labor disputes can use mediation reconciliation and arbitration as provided for in that law to maintain order in the provision of port transportation services.

The GO has agreed with the Japan Harbor Transportation Association (HTA) the Japan Shipowners' Port Council (SPC) and the Japan Foreign Steamship Association (FSA) to reform the prior consultation system as described in Attachment A. These reforms simplify the prior consultation system, increase transparency and provide for dispute settlement procedures.

The GO is committed to fully carry out its responsibilities for the implementation of these reforms and will guide the signatories to fully carry out their responsibilities.

The GO has agreed with the SPC and FSA on the creation of an alternative process of prior consultation as described in Attachment B. In the alternative process carriers intending to implement operational changes would confer with their Terminal Operators who would to the extent required by applicable collective bargaining agreements (to be formulated if necessary) consult with labor unions either directly or through a collective bargaining agent. The GO shall extend to the carriers and the Terminal Operators with whom they contract all necessary assistance such as advice from the viewpoint of public interest to facilitate the creation of this alternative process of prior consultation. It is expected that the alternative process will take effect on December

Any member of the FSA or the SPC is free to choose between the prior consultation system described in Attachment A or the alternative process in Attachment B when effective. Such choice would be made entirely by consent of the parties participating in either the system in Attachment A or the process in Attachment B. J

The GOJ f the nfi ms ha elevan laws and eg la i ns ha apply p pe a i ns will be enf ed, and ha ne essa y meas es will be applied vi la i ns f he laws and eg la i ns whi h in e fe e wi h he feed m fe n mi a ivi ies by p iva e pa ies.

P ime Minis e Hashimo has e p essed feq en ly and lea ly his mmi men de eg la i n as ne f he highes p i i ies f his adminis a i n. In line wi h ha mmi men and he MOC, he GOJ is n w nside ing ef ms he eg la i ns g ve ning p ansp a i n b siness.

N hing in his le e he a a hmen s inf inges n he legi ima e igh f lab p e ed by laws and eg la i ns, in l ding he Japanese C ns i i n.

The Gove nmen f Japan and he Gove nmen f he Uni ed S a es will h ld ns l a i n a he eq es f ei he side eview he implemen a i n f his le e and he a a hmen s.

A xa hmen A - F Pa y Ag eemen

A a hmen B - Th ee Pa y Ag eemen

Sin e ely,

[signa e]

K nihik Sai

Ambassad

I

The H n able

Madeleine Alb igh

The Se e a y f S a e

Washing n, D.C. 20520

A a hmen A

(iginal: Japanese)

(p visi nal ansla i n)

Oc be 28, 1997

Agreement on the Improvement of the Prior Consultation System of 1997

(P in iples)

The Japan Ha b T ansp a i n Ass ia i n (JRTA), he Japan Ship wne s' P C n il (JSPC), he Japan F eign S eamship Ass ia i n (JFSA) and he Minis y f T ansp (MOI), he eby ag ee as f ll ws, as a es l f he dis ssi n n he imp vemen f he P i C ns l a i n Sys em, in line wi h he In e im Ag eemen f Ma h 31s 1997.

1. The P i C ns l a i n Sys em shall be evised as pe he a a hmen en i led: "The Revised P i C ns l a i n Sys em f 1997".

2. The P i C ns l a i n Sys em is nd ed p n he eq es f a ie s n he ma es whi h affe he empl ymen and woking ndi i ns f p lab by hanges in a ie 's b siness pe a i ns.

3. (1) The P i C ns l a i n shall be based n he wopa y- wopa y ns l a i n sys em be ween he a ie s and he JHTA and be ween he JHTA and he lab ni ns .

(2) Ca ie s may se a sys em whi h d es n inv lve he JHTA as p es ibed in he p evi s pa ag aph. x

4. Consu ons e ween c rrsers nd he JHTA sh no e used o: oc e us ness mong por r nspor on us ness oper ors; res r c ompe on mong por r nspor on us ness oper ors; nor o nfrnge on he c rrsers' freedom o seec por r nspor on us ness oper ors.
5. The r or Consu on sys em does no h ve he effec of pprovg or of gr n ng permiss on of c rrsers us ness p ns.
6. Th s greemen does no u oma c y mend he or-man gemen greemen e ween he JHTA nd he or un ons. When mendmen s o he or-man gemen greemen re requ red for he mpemen on of h s greemen on r or Consu on Sys em, he JHTA sh nego e n good f h wih he concerned or un ons.
7. Th s greemen does no nfrnge upon he eg ma e r gh of or. The Governmen of J p n s no u horzed P o n ervene n or-man gemen re ons whch re du y conduc ed n ccord nce wih J p nese n on ws nd regu ons.
8. The MOT sh gu de he JHTA, he JS C, nd he JFSA o o serve he re ev n ws nd regu ons nd f hfuy mpemen h s Agreemen . The MOT sh make he u mos effor wih n s u hor y for ensur ng he smoo h oper on of he por r nspor on us ness nd for mprovement of he eff cency n us ng por s.
9. The MOT sh gu de por en erprses du y cens ed under he or Tr nspor on Bus ness L w o f hfuy dsch rge o g ons n ccord nce wih he s d w.

Mu sumi Os k

res den , he J p n H ar Tr nspor on Assoc on

No oru S k

Ch rman, he J p n Sh powners' or Counc

Br n T. Lu

V ce- Ch rman, he J p n Fore gn S e msh p Assoc on

S osh Iwamur

Drec or Gener , Mar me Tr nspor Bure u, he Min s ry of Tr nspor

(or gn : J p nese)

(prov s on r ns on)

A chmen

The Rev sed r or Consu on Sys em of 1997

I . M ers Su jec o Consu1 on

A. M jor Ma ers

Major ma ers re hose ch nges n c rrsers' us ness p ns h serous y ffec he emp oymen nd work ng cond ons of por or. C rrsers whch n end o c rry ou hese ch nges sh reques pr or consu on n wr ng o he JHTA e her drec y or hrough he JS C or he JFSA, nd prov de de ed exp n on e s one mon h efore mpemen on n pr nc p e efore c rry ng ou he ch nge:

1. Ch nge of con ner er h n use wih resu ng ch nge of he work ng sys em.
2. Ch nge of he work ng sys em con ner er h n use.
3. C rrsers' p r c p on n jon oper ons, ch nge here n, wihdr wa herefrom, e c. whch per n o ch nge of he work ng sys em.

B. Minor Ma ers P

The following matters shall be subject to consultation through the JHTA for local process :

1. Insurance of crew services by other involved vessels full contact vessels, roll on/off vessels, etc.).
2. Assignment of vessels other than full contact vessels to Kosh contact berths.
3. Work system related to the insurance of crew Kosh contact berths.
4. Change of contact berths use excluding the case prescribed 1. of paragraph

I A.).

5. Addition of assignment of vessels and deployment of liner vessels.
6. Change of call ports and departure to port calls.
7. Combined load of KDD access ports, etc. thereof of PCC vessels.
8. Temporary assignment of vessels.
9. Temporary port calls.

II. Procedures for Two Party-Two Party Consultation

1. The JHTA shall promptly process request from carriers for Prior Consultation without refusal to accept or suspend the process of it.
2. The JHTA shall promptly inform the carrier with the result of the labor- (the consultation with adequate explanation when the labor-assignment consultation is unsuccessful) or the request for further clarification of the carrier's request.
3. When Prior Consultation is successful, both the carrier and the JHTA shall report the result to the MOT.
4. The carriers' plan for the departure procedures shall separately be determined in a simplified way upon deliberation of the relevant parties.

III. Emergency Arrangement

On occasions that cannot be addressed by the above procedures, the carrier and the JHTA will consult with each other, determine emergency measures to be taken to secure the smooth operation of vessels.

IV. Dispute Settlement

1. Any member of the JHTA, the JSPC or the JFSA may request the MOT to act as arbitrator to resolve disputes arising from the Prior Consultation System in accordance with the principles set forth. The MOT may call a committee, chaired by the MOT and including the JHTA, the JSPC and the JFSA to resolve any question or dispute arising from the operation of the Prior Consultation system based on these principles.
2. The MOT, resolving the issues the arbitrator, shall render a final judgment as soon as possible in accordance with the provisions of these principles. The JHTA, the JSPC and the JFSA shall abide by the judgment.

V. Review of the Operation of the System

Based on the experience gained through the operation of the Prior Consultation System conducted through the meeting, any of the parties (the JHTA, the JSPC or the JFSA) may request a meeting of the four parties necessary to these principles to which where they shall consider and reach conclusions on the further improvement of the operation of the Prior Consultation System.

VI. Other Items

1. These principles shall come into force upon the signature by the JHTA, the JSPC, the JFSA and the MOT. (p

2. Those orders shall be subject to the approval of the Labour Management Agreement and shall be implemented after the said Labour Management Agreement has been duly concluded.
3. The orders of the Committee and the Memorandum of Understanding of 1986, the Committee of October 1986 and the Interim Agreement of March 1997 that conflict with this Agreement shall cease to have effect.

Attachment B

(Original: Japanese)

(Ordinance)

October 30, 1997

Agreement among the Parties to the Alternative Process of Productivity-Related Policies Pursuant to Article 3.2 of the Agreement on the Improvement of the Productivity System of 1997

The three parties undersigned hereby agree on the creation of an alternative process of productivity.

(Policies)

1. The Ministry of Trade (MOT) shall fulfill its responsibility under this Agreement to the full extent of its authority under the laws and regulations of Japan.

2. The MOT confirms its responsibility under Japanese law to ensure the smooth operation of the automobile business.

3. To the maximum extent, the three parties shall cooperate with regard to the alternative process.

(Establishment of the alternative process)

4. The three parties welcome the establishment of an alternative process of productivity which can be expected to implement operational changes would conflict with the General Contract of the Automobile Association as defined in the Pottery Business Law, hereafter referred to as the "Temple of the" with which they contract. It is expected that the alternative process will take effect on December 1, 1997.

5. () The MOT shall extend to the cases and the Temple of the with whom they contract, all necessary assistance, such as advice, from the viewpoint of public interest, to facilitate the creation of this alternative process of productivity.

(2) The MOT shall take necessary measures to address possible violations of relevant laws and regulations as may be brought to the attention of the establishment process.

(Implementation of alternative process)

6. The Government of Japan will use its authority under Japanese law to ensure that the operation of this alternative process of productivity will be free from illegal outside interference, harassment of the establishment.

7. The MOT shall, from the viewpoint of the importance of stable labor relations and harmony, assist the parties as appropriate with the aim to contribute to the utmost the occurrence of disputes according to Article 3 of the Labor Relations Adjustment Law.

8. Under the alternative process, a case will give 30-day notice of a desired operational change which affects the Temple of the to the Temple of the with which it contracts. Notably, it is expected that the Temple of the will implement such changes and the case will work of the board of directors to collect the necessary information and implement it. The effect of the implementation of the alternative process will be done by the Agreement of all relevant parties who would use it.

9. () In case a case is contacted Temple of the agree to the following dispute settlement procedures, the MOT will be expected to assist them in the implementation of the Agreement. 1

(2) Upon M n qu s by ca making us of h al na v p oc ss o has no b n allo d o mak op a onal chang s as no f d o h T minal Op a o, h ll nv s ga and d min ha h s n h n n o alloca bus n ss among po anspo bus n ss op a o h, no any nf ng men upon ca s' f dom o s l c po anspo bus n ss op a o s. Th OT ll p s n s f nd ngs n ng o h l van pa s h n 10 days of h qu s c v d f om a ca o long f h pa s mu ually ag .

A ca ch choos s o us h al na v p oc ss may OT po , as n c ssa y, o h h s ua on of h op a on of ha p oc ss as la s o h -po anspo a on bus n ss us d by ha ca .

(Oth s) h OT

11. No h ng n h s Ag men s n nd d o chang o mod fy gh s o obl ga ons of any pa y o an x s ng appl cabl coll c v ba ga n ng a ang men .

12. Th s ag men shall come n o fo c upon h s gna u by h Japan Sh po s' Po Council, h Japan Fo gn S amsh p Assoc a on and h n s y of T anspo .

Nobo u Saka a n

Cha man., Th Japan Sh po s' Po Council

B an T. Lu n

V c -Cha man, Th Japan Fo gn S amsh p Assoc a on

Sa osh I mu a

Di c o -G en al, me Tax spo Bu au, Th n s y of T anspo

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 M obtained from official archives maintained by the appropriate agency.