



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.

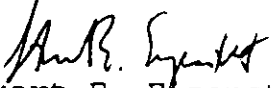
Enclosed for the Commission's review and action are complete copies of the correspondence between Secretary Albright and Ambassador Saito concerning the arrangements reached by the delegations during these discussions. We are pleased to report that this package represents a reasonable basis to recommend 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.

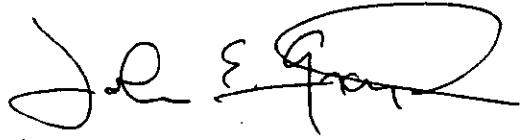
The Honorable
Harold J. Creel, Jr.,
Chairman of the Federal Maritime Commission.

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 ports. The hard work of the U.S. and Japanese delegations, the superb interagency cooperation within the U.S. Government, and the independent role of the Commission were vital in bringing these discussions to a successful conclusion.

Sincerely,



Stuart E. Eizenstat
Under Secretary of State for
Economic, Business and
Agricultural Affairs
Department of State



John Graykowski
Acting Maritime Administrator
Maritime Administration
Department of Transportation

enclosures

THE SECRETARY OF STATE
WASHINGTON

November 10, 1997

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. We will watch with interest your implementation of these measures.

Your 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

His Excellency
Kunihiko Saito,
Ambassador of Japan.

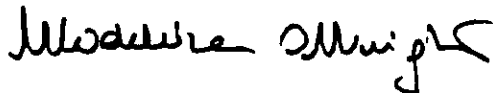
and reiterate our view that complete deregulation should be completed as soon as possible, but no later than December 31, 1998. We look forward to continuing our discussions on deregulation in this area through our Enhanced Deregulation Initiative.

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.

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,



Madeleine K. Albright



EMBASSY OF JAPAN
WASHINGTON, D. C.

November 6, 1997

Dear Mme. Secretary,

I am pleased to convey to you the assurance of the Government of Japan (GOJ) 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 11, 1997 (MOC). The GOJ confirms its commitment to guide all the signatories to the attachments in securing their faithful, effective and timely implementation of these reforms.

The GOJ reaffirms its undertakings on licenses for port transportation business operations contained in the MOC. With regard to licenses for port transportation business, 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. The GOJ 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 GOJ 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 GOJ 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 GOJ 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 GOJ 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 GOJ 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 GOJ has agreed with the Japan Harbor Transportation Association (JHTA), the Japan Shipowners' Port Council (JSPC) and the Japan Foreign Steamship Association (JFSA) 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 GOJ 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 GOJ has agreed with the JSPC and JFSA 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 GOJ 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 1, 1997.

Any member of the JFSA or the JSPC 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.

The GOJ further confirms that relevant laws and regulations that apply to port operations will be enforced, and that necessary measures will be applied to violations of the laws and regulations which interfere with the freedom of economic activities by private parties.

Prime Minister Hashimoto has expressed frequently and clearly his commitment to deregulation as one of the highest priorities for his administration. In line with that commitment and the MOC, the GOJ is now considering reforms to the regulations governing port transportation business.

Nothing in this letter or the attachments infringes on the legitimate right of labor protected by laws and regulations, including the Japanese Constitution.

The Government of Japan and the Government of the United States will hold consultation at the request of either side to review the implementation of this letter and the attachments.

Attachment A - Four Party Agreement
Attachment B - Three Party Agreement

Sincerely,


Kunihiko Saito
Ambassador

The Honorable
Madeleine Albright
The Secretary of State
Washington, D.C. 20520

(original: Japanese)

(provisional translation)

October 28, 1997

Agreement on the Improvement of the Prior Consultation System of 1997

(Principles)

The Japan Harbor Transportation Association (JHTA), the Japan Shipowners' Port Council (JSPC), the Japan Foreign Steamship Association (JFSA), and the Ministry of Transport (MOT), hereby agree as follows, as a result of the discussion on the improvement of the Prior Consultation System, in line with the Interim Agreement of March 31st, 1997.

1. The Prior Consultation System shall be revised as per the attachment entitled: "The Revised Prior Consultation System of 1997".
2. The Prior Consultation System is conducted upon the request of carriers on the matters which affect the employment and working conditions of port labor by changes in carrier's business operations.
3. (1) The Prior Consultation shall be based on the two party- two party consultation system between the carriers and the JHTA and between the JHTA and the labor unions.
(2) Carriers may use a system which does not involve the JHTA as prescribed in the previous paragraph.
4. Consultations between carriers and the JHTA shall not be used to: allocate business among port transportation business operators; restrict competition among port transportation business operators; nor to infringe on the carriers' freedom to select port transportation business operators.
5. The Prior Consultation system does not have the effect of approving or of granting permission of carriers business plans.
6. This agreement does not automatically amend the labor-management agreement between the JHTA and the labor unions. When amendments to the labor-management agreement are required for the implementation of this agreement on Prior Consultation System, the JHTA shall negotiate in good faith with the concerned labor unions.
7. This agreement does not infringe upon the legitimate right of labor. The Government of Japan is not authorized to intervene in labor-management

relations which are duly conducted in accordance with Japanese national laws and regulations.

8. The MOT shall guide the JHTA, the JSPC, and the JFSA to observe the relevant laws and regulations and faithfully implement this Agreement. The MOT shall make the utmost effort within its authority for ensuring the smooth operation of the port transportation business and for improvement of the efficiency in using ports.
9. The MOT shall guide all port enterprises duly licensed under the Port Transportation Business Law to faithfully discharge all obligations in accordance with the said law.

Mutsumi Osaki

President, the Japan Harbor Transportation Association

Noboru Sakata

Chairman, the Japan Shipowners' Port Council

Brian T. Lutt

Vice-Chairman, the Japan Foreign Steamship Association

Satoshi Iwamura

Director-General, Maritime Transport Bureau, the Ministry of Transport

The Revised Prior Consultation System of 1997

I. Matters Subject to Consultation

A. Major Matters

Major matters are those changes in carrier's business plans that seriously affect the employment and working conditions of port labor. Carriers which intend to carry out these changes shall request prior consultation in writing to the JHTA either directly or through the JSPC or the JFSA, and provide a detailed explanation at least one month before implementation in principle before carrying out the change:

1. Change of a container berth in use with a resulting change of the working system.
2. Change of the working system at a container berth in use.
3. Carriers' participation in joint operations, change therein, withdrawal therefrom, etc. which pertain to a change of the working system.

B. Minor Matters

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

1. Inauguration of new services by other innovated vessels (full container vessels, roll on/off vessels, etc.).
2. Assignment of vessels other than full container vessels at a Kosha container berth.
3. Working system related to the inauguration of a new Kosha container berth.
4. Change of container berths in use (excluding the case prescribed in 1. of paragraph I A.).
5. Additional assignment of vessels and deployment of larger vessels.
6. Change in calling ports and permanent additional port callings.
7. Combined loading of KD and accessorial parts, etc. thereof on 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 a request from a carriers for Prior Consultation without refusing to accept it nor suspending the processing of it.
2. The JHTA shall promptly inform the carrier in writing of the result of the labor-management consultation (with adequate explanation when the labor-management consultation is unsuccessful) or the request for further clarification of the carrier's

request.

3. When a Prior Consultation is unsuccessful, both the carrier and the JHTA shall report it in writing to the MOT.
4. The carriers' application format and application procedures shall separately be defined in simplified way upon deliberation among the relevant parties.

III. Emergency Arrangement

On any contingencies that may not be addressed by the above procedures, the carrier and the JHTA will consult with each other, and emergency measures may 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 this agreement. 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 this agreement.
2. The MOT, in resolving the issue as the arbitrator, shall render a fair and impartial judgment as soon as possible in accordance with the provisions of this agreement. 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 contained in this agreement, any of the parties (the JHTA, the JSPC or the JFSA) may request a meeting of the four parties signatory to this agreement at which where they shall consider and reach a conclusion on the further improvement of the operation of the Prior Consultation System.

VI. Other Items

1. This agreement shall come into force upon the signature by the JHTA, the JSPC, the JFSA and the MOT.
2. Those provisions in this agreement that will require amendment to the labor-management agreement regarding prior consultation will be implemented after the said labor-management agreement is amended accordingly.
3. The provisions of the Confirmation and the Memorandum of Understanding of 1986, the Confirmation of October 1996 and the Interim Agreement of March 1997 that conflict with this agreement shall cease to have effect.

(original:Japanese)
(provisional translation)
October 30, 1997

**Agreement among the Three Parties on the Alternative
Process of Prior Consultation Prescribed in Principles Paragraph 3.2
of the Agreement on the Improvement of the Prior Consultation
System of 1997**

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

(Principles)

1. The Ministry of Transport (MOT) shall fulfill its responsibility under this Agreement to the full extent of its authority under the laws and regulations in force in Japan.
2. The MOT confirms its responsibility under Japanese law to ensure the smooth operation of port transportation 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 prior consultation in which carriers intending to implement operational changes would consult with their General Contractor providing port transport services as defined in the Port Transport Business Law, hereinafter referred to as the "Terminal operator" with which they contract. It is expected that the alternative process will take effect on December 1, 1997.
5. (1)The MOT 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.
(2)The MOT shall take necessary measures to address possible violations of relevant laws and regulations as may be brought to their attention during 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 prior consultation process will be free from illegal outside interference, harassment or retaliation.
7. The MOT shall, from the viewpoint of the importance of stable labor relations in ports and harbors, assist the parties as appropriate with the aim to prevent to the utmost the occurrence of disputes in accordance with Article 3 of the Labor

Relations Adjustment Law.

8. Under the alternative process, a carrier will give 30-day notice of a desired operational change which affects terminal operations to the Terminal Operator with which it contracts. Normally, it is expected that the Terminal Operator will implement such changes or advise the carrier in writing of the bona fide collective bargaining basis preventing such implementation. The effective implementation of the alternative process will depend on the agreement of all relevant parties who would use it.
9. (1) In case a carrier and its contracted Terminal Operator agree to the following dispute settlement procedures, the MOT will be prepared to assist them in the implementation of their agreement.
(2) Upon written request by carrier making use of the alternative process who has not been allowed to make operational changes as notified to the Terminal Operator, the MOT will investigate and determine that there was neither intent to allocate business among port transport business operators, nor any infringement upon carriers' freedom to select port transport business operators. The MOT will present its findings in writing to the relevant parties within 10 days of the request received from a carrier or longer if the parties mutually agree.
10. A carrier which chooses to use the alternative process may report, as necessary, to the MOT the situation of the operation of that process as it relates to the port transportation business used by that carrier.

(Others)

11. Nothing in this Agreement is intended to change or modify rights or obligations of any party to an existing applicable collective bargaining arrangement.
12. This agreement shall come into force upon the signature by the Japan Shipowners' Port Council, the Japan Foreign Steamship Association and the Ministry of Transport.

Noboru Sakata
Chairman, The Japan Shipowners' Port Council

Brian T. Lutt
Vice-Chairman, The Japan Foreign Steamship Association

Satoshi Iwamura
Director-General, Maritime Transport Bureau, The Ministry of Transport