

Memorandum of Consultation

Delegations of the Government of the United States of America, headed by VADM A. J. Herberger, Maritime Administrator, Department of Transportation, and the Government of Japan, headed by Mr. Sadao Iwata, Director-General of Maritime Transport Bureau, Ministry of Transport, held consultations on the following maritime issues in Washington, D.C. on April 2-11, 1997.

Both sides agreed to record the following:

1. Licenses for Port Transportation Business

The U.S. side stressed the importance for U.S. carriers to enjoy the same freedom to operate in Japan as Japanese carriers enjoy in the United States. The U.S. side also stressed that, in this respect, liberalization of the Ministry of Transport's (MOT) licensing requirements for harbor service companies is necessary.

The Japanese side confirmed that license applications meeting the standards stipulated in the Port Transportation Business Law will be approved by MOT within approximately four months of receipt when such applications meet the following criteria:

- 1) They are submitted by foreign carriers or their subsidiaries;
- 2) They are for General Port Transportation Business Licenses as set forth in Article 3, Section 1 of the Port Transportation Business Law and/or Port Stevedoring Business Licenses as set forth in Section 2 of the same article; and
- 3) They are for operations to be conducted for the applicant's (or the applicant's parent's) own account and/or for its consortia partners and third parties at berths leased in a containership port by the applicant (or the applicant's parent).

The Japanese side stated that MOT is knowledgeable regarding the operations of U.S. carriers and their consortia partners in Japan's ports and that, based on this knowledge, completed applications by these companies for operations at berths leased by the applicant (or the applicant's parent) would be in compliance with the law and, accordingly, will be approved.

The holders of licenses to operate port transportation businesses will not be required to join the Japan Harbor Transportation Association (JHTA).

The Japanese side will exert its maximum effort to prevent the unjustifiable denial of services essential to the conduct of any licensed activities.

The U.S. side stated that it has received assurances from U.S. carriers that they have the greatest respect for the quality work performed by Japanese longshore labor union

members, and that they will provide them continuing work opportunities at prevailing wage and employment levels where they operate port transportation businesses under a license.

The Japanese side stated that each port transportation business operator may establish rates on its own for licensed services at container terminals. Those rates shall be approved by the MOT unless it can be demonstrated that they do not bear a reasonable relation to cargo handling cost.

The Japanese side stated that the process of deregulation of the licensing system for port transportation businesses has already begun by the Cabinet decision of December 17, 1996. They explained that the next step will be deliberations by the Administrative Reforming Committee resulting in the compilation of a proposal. Based on this proposal, the Council for Transport Policy will formulate a concrete proposal relevant to the Port Transportation Business Law. This concrete proposal will be respected by the MOT, and a bill amending the Port Transportation Business Law will then be presented to the Diet for deliberation.

The U.S. side said it is essential to complete deregulation of licensing of port transportation services at container ports as soon as possible, but no later than December 31, 1998.

2. Prior Consultation System

The Japanese side explained that under the leadership of the MOT, the parties concerned (JHTA, Japan Shipowners' Port Council, Japan Foreign Steamship Association and the MOT) have endorsed at the Meeting for Improvement of the Prior Consultation System ("the Meeting") an "Interim Agreement" that provides a framework for reforming the prior consultation system by July 31, 1997 and both sides recognized that this is an essential first step. The Japanese side presented its outline of the Interim Agreement as follows:

- Clear Classification between Major Matters and Minor Matters
Regarding prior consultation matters, the classification between Major Matters and Minor Matters is made clear.
- Setting of the Deadline for Further Improvement
The parties concerned shall discuss and reach agreement by July 31, 1997, so that a more simplified and modernized prior consultation system could be realized.
- Introduction of the Appeal System
Any doubt or dispute among the parties concerned arising from the operation of the prior consultation system shall be adjusted at the Meeting chaired by the MOT.

- Role of the MOT
The Interim Agreement explicitly stipulates that the MOT shall guide each party concerned to faithfully implement the agreement concluded by the Meeting.

Moreover, the Japanese side also clarified that:

- emergency applications for prior consultation will be accepted flexibly;
- prior consultation is not to be used to allocate work among port transportation business operators;
- all carriers have freedom to contract with any port transportation business operator;
- all requests for prior consultation will be considered;
- the so-called "pre-pre-prior consultation" will not be required;
- all reforms of the prior consultation system will be agreed among the parties concerned by July 31, 1997, including reaching agreement, if necessary, with affected labor unions on those matters substantially impacting employment and jobs;
- the MOT will, while respecting the principle of non-governmental intervention into industrial labor-management agreements, continue to exert its maximum effort through July 31, 1997, to achieve these objectives. Beyond that date MOT will exert its maximum effort with regard to the final agreement.
- a concrete schedule of meetings with a specified agenda was agreed by the parties concerned.

Both sides agreed that meaningful reform of prior consultation should occur promptly. The U.S. side stressed that the following goals are to be achieved by July 31, 1997:

- Minor matter consultations will be wholly eliminated.
- Major matter consultations will involve a consultative process between stevedore and/or general contractor employers and their longshore union employees. Individual stevedores and general contractors may consult with their foreign carrier principals as required, but there shall be no requirement that foreign carriers consult with or apply for any permission or consent from JHTA.
- The definition of major and minor matters are:
 - a) "major" matters are defined as all changes having a substantial dislocation effect on longshore labor by reason of (i) terminal consolidations, or (ii) adding carriers to a carrier consortium;
 - b) all other matters are "minor".
- A transparent appeals system, under the direction of MOT, will be formulated during the Meeting to establish a lasting body to which all parties can bring doubts or disputes for resolution.

The Japanese side confirmed that these issues will be included on the agenda for the talks on reform of the prior consultation system, when proposed by a relevant party concerned.

3. Communications with FMC

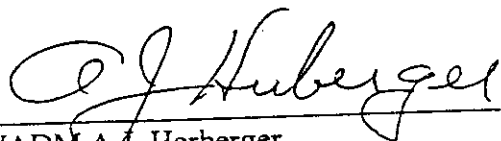
The U.S. side will advise the Federal Maritime Commission and other relevant parties that the U.S. Government agencies concerned are satisfied that the discussions as reflected in this memorandum of consultation were conducted in good faith and that they represent a reasonable basis for not imposing sanctions on April 14, 1997.

4. Consultations

Further bilateral consultations shall be held at the request of either government to assess progress toward achieving these goals.

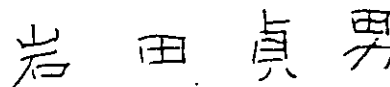
Done in Washington, D.C. on April 11, 1997.

For the U.S. Department of Transportation



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Maritime Administrator

For the Japanese Ministry of Transport



Sadao Iwata
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