



CHINA – ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

REQUEST TO JOIN CONSULTATIONS

Communication from Japan

The following communication, dated 4 March 2022, from the delegation of Japan to the delegation of China, and the delegation of the European Union, is circulated to the Dispute Settlement Body in accordance with Article 4.11 of the DSU.

I wish to refer to the consultations requested by the European Union ("EU") pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), Article 64.1 of the *Agreement on Trade-Related Aspects of Intellectual Property Rights* ("TRIPS Agreement") and Article XXII:1 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994") in the communication circulated to WTO Members on 22 February 2022, titled "CHINA – ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS" (WT/DS611/1, IP/D/43, G/L/1427). My authorities have instructed me to notify the consulting Members and the Dispute Settlement Body of the desire of Japan to join in the consultations, pursuant to Article 4.11 of the DSU.

The subject matter of the consultations requested by the EU relates to China's policy and continued issuance of so called "anti-suit injunctions" in the context of intellectual property rights by Chinese courts which prohibit a party of other WTO Members, including Japan, from seeking judicial relief outside the Chinese jurisdiction.

China's laws, regulations and court decisions and other measures relating to the anti-suit injunctions in the context of intellectual property rights, which are identified in the request for consultations by the EU, have a commercial impact on Japanese entities. Many Japanese entities that hold Standard Essential Patents ("SEPs") conduct business globally, including in China, the EU, Japan, and elsewhere, and thus may be affected by China's issuance of anti-suit injunctions which prohibit entities from seeking judicial relief in other jurisdictions.

In the telecommunication technology sector alone, Japanese entities hold around 10.9% of the 5G and other related SEPs concerning telecommunication technology, on a patent family basis, and thus Chinese policy and continued issuance of anti-suit injunctions wield a significant impact on Japanese entities holding relevant SEPs.

For these reasons, Japan has a substantial trade interest in the consultations the EU requested, and wishes to join in the consultations.

Japan looks forward to receiving confirmation of acceptance of this request.
