JAPAN - MEASURES AFFECTING IMPORTS OF CERTAIN TELECOMMUNICATIONS EQUIPMENT

Request by Sweden to be Joined in the Consultations under Article XXII:1
Requested by the EC

The following communications, dated 25 and 31 October 1994, sent by the Permanent Mission of Sweden in Geneva, are circulated in accordance with procedures adopted on 10 November 1958 by the CONTRACTING PARTIES to the GATT (BISD 7S/24).

Pursuant to procedures adopted on 10 November 1958 (BISD 7S/24) by the CONTRACTING PARTIES to the General Agreement, Sweden hereby advises the Secretariat of the desire of Sweden to be joined in the consultations under Article XXII of the General Agreement requested by the Permanent Mission of the Commission of the European Communities by letter dated October 13, 1994 regarding the agreement, reached between the governments of the United States of America and Japan on March 12, 1994, regarding telecommunications ("the IDO-Monitoring Agreement"). Sweden has a substantial trade interest in this matter.

We have so advised the Permanent Mission of Japan and the Permanent Mission of the Commission of the European Communities by the enclosed letter dated October 25, 1994.

With reference to Ambassador Manhusen's letter of 25 October 1994 (above), please find enclosed a list of questions that my government would like to take up in the consultations regarding telecommunications ("the IDO-Monitoring Agreement") between the Government of Japan and the European Union under GATT Article XXII:1.

AGREEMENT OF MARCH 12, 1994 ON THE "CELLULAR TELEPHONE ISSUE": QUESTIONS FROM SWEDEN TO JAPAN

- Issues to be discussed during Article XXII consultations on the Japan-US agreement concerning mobile telephone equipment

1DS52/1
1. Commitments by the Government of Japan to the Government of the United States

In the agreement between Japan and the United States on the "Cellular Telephone Issue" of March 12, 1994, the Government of Japan (GOJ) agrees i.a. to meet with the Government of the United States "... quarterly ..., or at any time upon request of either Government, to assess implementation of ..." the IDO measures. In addition it is stated that: "If, at the time of any quarterly review, the actions called for in the letter (i.e. the letter of intent IDO-Motorola) have not been implemented, the Government of Japan, in consultation with the government of the United States, will take all available measures to ensure compliance with the letter by the next quarterly review".

1.1 Do the Government of Japan and the Government of the United States have to agree on what constitutes a problem, i.e. in what respect the actions called for in the latter have not been implemented, or is it sufficient that one party to the agreement signals a problem?

Could the Government of Japan give an example of problems that, in its view, would lead it to take all available measures?

1.2 On the basis of the commitments of the Government of Japan to the Government of the United States, of which some are stated above, what actions will be taken by the government of Japan to guarantee MFN treatment of third countries?

Is the commitment by the Government of Japan to "take all available measures" to implement IDO's plan compatible with non-discriminatory market access of other competing companies?

1.3 Could the Government of Japan give examples of measures that could be considered as "available" to it in order to ensure the compliance of IDO?

1.4 Using "all available measures" what action would be taken by the Government of Japan if (a) IDO preferred buying equipment from other suppliers if such equipment proved more efficient and less costly than that of Motorola? (b) consumer demand decreased for the Motorola equipment in favour of other companies' equipment or systems?

1.5 What commercial advantages of the TACS system - for Japan and the Japanese consumer - have led the Government of Japan to reallocate frequencies from the HI-CAP system and i.a. to ensure IDO's measures to promote TACS' business?

1.6 It is stated that the Government of Japan "... will give full and prompt consideration to any requests from IDO for its new tariff rates and conditions.". What does this working imply, and in particular the part stating "any requests ... for its new tariff rates"?

2. Commitments by the Government of Japan to IDO

2.1 What financial guarantees have been accorded IDO by the Government of Japan for the procurement of the Motorola equipment?
2.2 What financial guarantees or commitments have been accorded other companies by the Government of Japan for the procurement or development of other mobile telephone equipments or systems?

2.3 What are the procedures for applying for frequency allocation in Japan? What body decides on these issues?

3. **IDO's part of the Agreement**

3.1 Was IDO’s choice of the TACS system and the Motorola equipment preceded by any tendering procedures providing for selection procedures, adequate time limits for submission of tenders, etc.?

   (a) if so, were any other companies involved in the tendering procedures?

   (b) if not, what was the reason for not using tendering procedures?

3.2 In the view of the Government of Japan, what commercial advantages of the TACS system and the Motorola equipment led IDO to extend the TACS system coverage to the Tokyo-Nagoya region, already covered by the IDO run HI-CAP system?

What other reasons, apart from commercial considerations, could have led IDO to double the analogue system coverage in this region?

3.3 If IDO’s choice of the TACS system and the Motorola equipment was made on commercial grounds and in IDO’s interest, why would there be a need for the Government of Japan to monitor and oversee the completion of the plan?

3.4 As a private and independent company has IDO never objected to the government monitoring of the IDO-plan?

Could the Government of Japan give examples of other instances where it is required to ensure compliance of an individual company to a certain business agreement?

4. **Mobile Telecommunications in Japan**

4.1 What are the main functions of the Government of Japan in the area of mobile/cellular telecommunications?

4.2 Does the Government of Japan have any specific strategy for the development of mobile telephone in Japan?

4.3 What are the results, so far, of the monitoring and overseeing that should be carried out by both the Government of Japan independently and jointly together with the Government of the United States? What were the results of the first monitoring meeting held in August 1994? When is the next such meeting to be held?
5. **Other**

5.1 As a result of the Agreement of March 12, 1994, what commitments have been made by the Government of the United States to the Government of Japan?

5.2 As a result of IDO’s letter of intent to Motorola, have any commitments been made to IDO by Motorola, other than normal contractual obligations?