

FIRST JOINT STATUS REPORT ON THE U.S.-JAPAN ENHANCED INITIATIVE
ON DEREGULATION AND COMPETITION POLICY
MAY 15, 1998

Since June 1997, the Governments of the United States and Japan have been engaged in an extensive effort to fulfill the objective of the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy (Enhanced Initiative) under the U.S.-Japan Framework for a New Economic Partnership (Framework) "to conduct a serious exchange of views and to undertake measures, as called for in the Framework, to 'address reform of relevant government laws, regulations, and guidance which have the effect of substantially impeding market access for competitive goods and services,' in order to enhance consumers' interests and to increase efficiency and promote economic activity."

The Enhanced Initiative reflects the strong belief of both governments in the benefits of deregulation. The promotion of deregulation and active implementation of competition policy are issues of major importance to both governments.

Under the Enhanced Initiative the Governments of the United States and Japan have held meetings of the High-level officials Group and of five Expert-level Groups: telecommunications, housing, medical devices/pharmaceuticals, financial services, and the deregulation and competition working group, which addresses structural issues, including competition policy and distribution, and issues related to transparency and government practices. Consistent with the principles of two-way dialogue and the achievement of tangible progress, both sides have exchanged views and interests on a wide variety of deregulation items and each has provided clarifications on the progress made on its side. As part of that effort, the Government of the United States provided a submission to the Government of Japan regarding deregulation, competition policy, transparency and other government practices in November 1997. The Government of Japan has also raised regulatory issues of interest with the Government of the United States.

The Government of Japan has undertaken a series of deregulatory measures, the latest and the most significant being the new three-year program for the promotion of deregulation decided by the cabinet on March 31, 1998, based on the extensive hearings of both domestic and foreign requests. The salient Japanese deregulatory and other measures that relate to the dialogue under the Enhanced Initiative are set out in this report.

The Government of the United States welcomed the progress made through efforts by the Government of Japan. At the same time, the Government of the United States encouraged continued efforts by the Government of Japan to promptly address outstanding U.S. proposals contained in the Government of the United States' November 1997 submission.

The Government of the United States provided explanations of the U.S. items of interest to the Government of Japan. Those items are set out in this report. The Government of Japan encouraged the Government of the United States to actively address these issues.

The Governments of the United States and Japan share the view, as discussed under the Enhanced Initiative, that these measures will improve market access for competitive goods and services, enhance consumers' interests, increase efficiency and promote economic activity. Consistent with international obligations, the measures undertaken under the Enhanced Initiative will provide nondiscriminatory treatment to foreign goods and services.

Both governments reaffirmed their determination to further promote deregulation and to continue dialogue under the Enhanced Initiative, including considering new issues. Recognizing the importance of broad-based deregulation in fostering competition, and that the energy sector is closely related to energy security and the global environment, the two governments will address deregulation matters under the Enhanced Initiative in an expert-level group to be established under the existing Japan-United States Energy Working Group. This expert-level group will be co-chaired by the Ministry of Foreign Affairs and the Ministry of International Trade and Industry for the Government of Japan and chaired by the United States Trade Representative for the Government of the United States.

The two governments recognize that implementation of the measures identified in this Report is an ongoing process and in many cases will require reform of relevant government laws, regulations, and guidance. Under the Enhanced Initiative, the two governments, upon the request of either government, will meet at a mutually convenient time to address these measures, and will work closely together to ensure that these measures contribute to fulfilling the objective of the Enhanced Initiative.

DEREGULATION AND OTHER MEASURES BY THE GOVERNMENT OF JAPAN
UNDER THE ENHANCED INITIATIVE

A. Housing

1. Amendment of the Building Standards Law to introduce performance-based codes and a centralized evaluation system for new building materials by FY 2000 and to implement by FY 1999 upgraded and efficient building confirmation and inspection procedures, and newly simplified performance-based procedures to be implemented in FY 2000 for three-story, multi-family wood housing and certain commercial and mixed use wood buildings in quasi-fire protection districts (legislation submitted in the current session of the Diet).
2. Announcement of basic ideas on how to implement regulations related to the amended Building Standards Law to the parties concerned at the stage of its preparation over a two-year period beginning in June 1998.
3. Introduction and promotion of procedures for approval of three-story, multi-family wood housing and certain commercial and mixed used wood buildings in quasi-fire protection districts implemented beginning in August 1997.
4. Implementation of the testing methods and procedures for 2x4 construction, including pass/fail testing procedures, based on international and North American practices beginning in May 1998.
5. Recognition of American Standards Lumber Committee (ASLC) and Western Wood Products (WWPA) grademarks for machine stress rated lumber announced in February 1998, and recognition of ALSC and WWPA grademarks for finger-jointed lumber to be announced in May 1998.
6. Work toward recognition of the Underwriters' Laboratories as a fire testing laboratory for various fire preventative building materials.
7. Conclusion that the cordless nailer (IM350/90CTQ) does not fall within the definition of "firearms" in the Firearms and Swords Control Law in March 1998.
8. Continue ongoing dialogue on recognition of U.S. nails and nailing systems.
9. Continue ongoing dialogue on market access and standards-related issues in the housing sector, including detailed and timely review of measures to implement the amended Building Standards Law.
10. A revised Japanese Agricultural Standards (JAS) for structural plywood, emphasizing performance-based standards, including board strength, will be introduced during FY 1998.

B. Telecommunications

1. Interconnection

- (1) Recommendation on methods for realizing number portability will be issued in FY 1998 based on a study conducted by experts.
- (2) Recommendation on the streamlining of the way to conclude interconnection agreements among more than two companies will be issued in FY 1998 based on a study conducted by experts.
- (3) The Government of Japan intends to submit a bill necessary to amend the Telecommunications Business Law (TBL) to the ordinary session of the Diet in the Spring of 2000 in order to implement long-run incremental cost methodology (LRIC) as early as possible. Once the bill is passed, the Government of Japan will expedite necessary procedures (e.g., the issuance of ministerial ordinances and approval of interconnection tariffs) so as to implement LRIC at the earliest possible date. Provided that all due procedures are completed expeditiously, LRIC will be implemented in CY 2000. In this process, due consideration will be paid to ensuring that the implementation of LRIC would cause no disruption of provision of universal service and that it would not prove destructive to end user rates and business operations of incumbent local exchange carriers. Prior to the introduction of LRIC-based rates, the Government of Japan will, within the scope of its existing authority, promote the reduction of interconnection rates as much as possible.

2. Communications Satellite Digital Broadcasting

- (1) Relaxation of restrictions on the multiple ownership of channels for Communications Satellite Digital Broadcasting services in March 1998.
- (2) Permission for statistical multiplexing between CS digital broadcasting-consignors by the end of 1998.
- (3) Elimination of the full cost principle applied for the notification system of CS broadcasting transponder rates, expected to be implemented around June 1998.

3. International Simple Resale (*Ko-Sen-Ko*): Liberalization of international simple resale, implemented since December 22, 1997.

4. Foreign Investment Restrictions in KDD: Elimination of foreign investment restrictions in KDD (law to be promulgated in May 1998).

5. The 100-Destination Rule: Elimination of restriction on international transit services (the 100 destination rule) by June 1998.

6. Licensing and Tariffs Procedures
 - (1) Introduction of legislation permitting tariffs on notification basis (law to be promulgated in May 1998).
 - (2) Permission for Type II telecommunications carriers to establish access line facilities that will connect single user facilities (law to be promulgated in May 1998).
 - (3) Narrowing the scope of Special Type II telecommunications businesses (law to be promulgated in May 1998).
 - (4) Introduction of measures to prevent predatory pricing (law to be promulgated in May 1998).
7. Ministry of Posts and Telecommunications' (MPT) Notice and Comment Procedures: Voluntary implementation by the MPT of a notice and comment process for major regulatory changes.
8. CATV Services: Conclusion of a study by the end of 1998 on restrictions on foreign investment for cable television operators with a view toward their removal.
9. Testing and Certifications
 - (1) Simplification of application procedures for testing and approval of the Radio Equipment Testing and Approval Association (MKK) from September 16, 1997.
 - (2) Simplification of MKK technical standard compliance certification from December 25, 1997.
 - (3) Simplification of permission procedures for cable television facilities installation from April 1998.
 - (4) Simplification of certifications of conformity with technical standards for radio equipment (law to be promulgated in May 1998).
 - (5) Simplification of compliance approval with technical conditions for telecommunications terminal equipment (law to be promulgated in May 1998).
10. Rights of Way: Completion of a study by the end of 1998 on current conditions in Japan governing access to poles, conduits, ducts and rights-of-ways, with a view to proposing measures to improve the ability of CATV companies and telecommunications carriers to obtain timely, nondiscriminatory and transparent access to such resources.

C. Medical Devices/Pharmaceuticals

1. Greatly expanded acceptance of foreign clinical test data for approval of new medical devices, by interpreting the March 1997, Ministry of Health and Welfare (MHW) directive as broadly as possible.
2. Recognize the value of innovation of pharmaceuticals and medical devices, so as not to impede the introduction of innovative products which bring more effective and more cost-effective treatments to patients.
3. In order to ensure transparency in the consideration of health care policies, allow foreign pharmaceutical and medical device manufacturers meaningful opportunities to state their opinions in the relevant Councils on an equal basis with Japanese manufacturers, and provide them on their request, with opportunities to exchange views with MHW officials at all levels.
4. Shorten the approval processing period for new drug applications to 12 months by April 2000, with steady and continuous improvement between now and then, and to further speed the introduction of innovative new pharmaceuticals, significantly shorten approval times, particularly for priority drugs.
5. Expand acceptance of foreign clinical test data for pharmaceuticals through the incorporation of International Conference on Harmonization guidelines into Japanese domestic regulations by August 1998, and use an acceptance process that is transparent and avoids inappropriate delays.
6. Develop as soon as possible streamlined and transparent procedures for the prompt creation of new functional reimbursement categories for medical devices within a specified period of time considering the views of interested manufacturers, clinical experts, and others, subject to the approval of Central Social Insurance Medical Council (*Chuikyo*).

D. Financial Services

An extensive program of liberalization of financial services, extending until 2001, is being implemented according to the schedule set down in June 1997, and legislation to implement a significant part of the remaining program has been submitted to the Diet. The United States welcomed the progress made, and the Japanese intention to carry out the full program of liberalization within the proposed schedule.

1. Lifting of the ban on issuance of subordinated bonds by commercial banks (June 30, 1997).
2. Liberalization of intermediation of unlisted and unregistered equities by securities companies (July 1, 1997).
3. Introduction of options on individual stocks in the Tokyo Stock Exchange and the Osaka Stock Exchange (July 18, 1997).

4. Introduction of general securities accounts (similar to cash management account in the U.S.) (October 1, 1997).
5. Widening the scope of business activities for subsidiaries of financial institutions (October 1, 1997). Securities subsidiaries of banks are allowed to engage in secondary market business for equity related bonds and transactions related to stock index futures and options (excluding those that may require delivery of the underlying shares). Trust bank subsidiaries of securities firms are allowed to engage in loan trust, specified money trusts (*tokkin*) and directed money trust for separate investment (*shiteitan*).
6. Introduction of an off-hour trading system for block and basket trading in the Tokyo Stock Exchange (November 14, 1997).
7. Introduction of direct over-the-counter sales of investment trusts by securities investment trust companies on the premises of banks and other financial institutions (December 1, 1997).
8. Lifting of the ban on financial holding companies (March 11, 1998).
9. Liberalization, in principle, of cross-border capital transactions, as the revised Foreign Exchange and Foreign Trade Law came into effect. (April 1, 1998).
10. Liberalizing brokerage commissions on the portion of a transaction in excess of yen 50 million (April 1, 1998).
11. Abolition of the obligation for member insurers to use premium rates calculated by the rating organizations (under deliberation in the current session of the Diet and expected to be implemented on July 1, 1998).
12. Promoting transaction of assets through establishing a system for securitization of assets via special purpose companies (SPCs) (under deliberation in the current session of the Diet and expected to be implemented on September 1, 1998).
13. Introduction of new investment trust products such as company-type investment trusts and privately-placed investment trusts. (Under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
14. Full liberalization of securities derivatives (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
15. Elimination of restrictions on the scope of business activities for securities companies (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).

16. Switch from a licensing system to a registration system for securities companies (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
17. Introduction of proprietary trading systems (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
18. Expansion of the scope of business activities for banks (lifting the ban on sales of investment trusts, etc.) and for subsidiaries of banks (to full financial related services.) (Under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
19. Creation of the Securities Investor Protection Fund, with accompanying measures, such as required separation of customer and proprietary accounts, to reduce participant risks, and creation of the Policy Holders Protection Corporations (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
20. Requirement that corporate financial statements and disclosures should be made primarily on a consolidated basis (to be phased in from FY 1998).
21. Elimination of restrictions on the scope of business activities for securities operating subsidiaries of banks and trust bank operating subsidiaries of securities companies (expected to be implemented in the 2nd half of FY 1999).
22. Full liberalization of brokerage commissions (expected to be implemented by the end of 1999).
23. Mutual entry between the insurance businesses and other financial business areas (expected to be implemented by March 2001).
24. Allowing investment trust management companies and investment advisory companies to grant discretionary authority to other fund management companies (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).

E. Distribution

1. Customs/Import Processing

- (1) Introduced an interagency network system which links the customs clearance computer systems with the computer systems of the Ministry of Health and Welfare (MHW) and the Ministry of Agriculture, Forestry and Fisheries (RAFF), in order to expedite import procedures.
- (2) To enable swift import clearance, Japan Customs introduced several measures, such as expanding pre-arrival review, providing prior classification information by

facsimile and so-called clearance-upon-arrival through the use of customs clearance system for air cargo (Air-NACCS: Nippon Automated Cargo Clearance System).

- (3) Prior classification information system using e-mail will be established by the end of 1998.
- (4) Upgrade the customs clearance computer system for maritime cargo (Sea-NACCS) by the end of FY 1999:
 - a. to enable swift import clearance for maritime cargo with sophisticated linkage between cargo status information and import declaration information; and
 - b. to enhance the interagency network system in order to link with the computer systems of other agencies concerned to realize one-stop service on import and export procedures.
- (5) EDI filing for import-export permits and approvals under the provisions of the Foreign Exchange and Foreign Trade Law will be instituted by FY 1999.

2. Retailing and Services

- (1) Fundamental Changes of Policy Concerning Large Scale Retail Stores: Submission of a bill to introduce a new legal regime to address current and new concerns involved in the opening and operating of large-scale retail stores. This new legal regime will eliminate the use of supply/demand adjustment mechanisms and require local governments to apply transparent criteria that are limited to environmental factors, e.g., traffic and noise, set out in guidelines issued by the central government. The current Large Scale Retail Store Law will be thereby abolished.
- (2) Liquor: With regard to liquor retail license, the restriction on the number of licenses issued per a definite population will steadily be phased out from September 1998, to be abolished as of September 1, 2003. The restriction on proximity to existing premises will be abolished on September 1, 2000.

3. Transportation

- (1) Trucking Business
 - a. Enlargement of the operation zones to cover entire regional economic blocs will be completed during FY 1998; and
 - b. Minimum number of vehicles for a trucking business will be gradually reduced to five for every region of the country by FY 2000.
- (2) Requirements for the submission of cost account statements, concerning fees and charges for freight forwarding business, will be eased by FY 1998.

- (3) Necessary measures will be taken concerning port transportation business to comply with the contents of the final Report submitted by the Administrative Reform Committee in December 1997, which included the following points: the abolition of the current business licensing system (demand-supply adjustment regulation), to be replaced by an approval system; the abolition of the current approval system for charges, to be replaced by a notification system; and at the same time, the examination and implementation of various measures for ensuring stability of port transportation.
4. Standards, Specifications and Certification of Vehicles
 - (1) The current system for automotive repair mechanics is being reviewed, taking into account comments and opinions of interested domestic and foreign parties, with deregulation as one of the objectives.
 - (2) Extension of the period of validity of completion inspection certificate from six months to nine months (legislation for the revision of the Road Vehicles Act submitted to the current session of the Diet).
- F. Competition Policy
 1. The Japan Fair Trade Commission (JFTC)
 - (1) The JFTC reaffirms its commitment to effectively enforce and strictly apply the Antimonopoly Act in accordance with relevant guidelines to address anti-competitive practices, including cases where any practices, such as those with retaliatory threats, by an influential manufacturer against distributors lead to exclusion of its competitors.
 - (2) When the JFTC as part of an economic survey recommends that firms implement measures, the JFTC will undertake a follow-up survey to assess whether firms have implemented measures recommended by the JFTC and report the results to the public.
 2. Budget and Resources: The Government of Japan will increase JFTC staff by 10 persons and its budget by 1.1% in FY 1998.
 3. Surveys: The JFTC will:
 - (1) Conduct a survey of the Antimonopoly Act compliance programs of the top 2000 Japanese firms, with a report to be issued in summer 1998. In this regard, the JFTC is prepared to consult with and give advice to firms concerning their compliance programs.
 - (2) Conduct a follow-up survey of the photographic color film and paper industry to assess how firms have addressed the JFTC's suggestions; and

- (3) Conduct a follow-up survey of the flat glass industry to assess how firms have addressed the JFTC's suggestions.
4. Private Remedies: The Government of Japan established study groups (MITI in September 1997 and JFTC in March 1998) to consider systems to permit private parties to sue for injunctions against violations of the Antimonopoly Act with reports to be expected in Summer 1998 and Fall 1998, respectively.
5. Exemption Systems of the Antimonopoly Act: The Government of Japan will submit legislation to the next ordinary session of the Diet to abolish or reform exemption systems (including anti-depression cartels and rationalization cartels), based on a March 1998 cabinet decision.
6. Deregulation: The JFTC will actively conduct surveys and make necessary proposals regarding the business field where entry is restricted by supply-and-demand adjustment regulations as well as business fields where entry regulations have been relaxed.
7. Bid-rigging:
 - (1) The Government of Japan will take necessary measures to secure full compliance with section V.6(1) "Confirmation in Tendering Documents" of the "1994 Action Plan on Reform of the Bidding and Contracting Procedures for Public Works," which requires participants in bidding to confirm in tendering documents that they recognize they may not engage in practices inconsistent with the Antimonopoly Act, and that they are indeed not involved in such practices.
 - (2) To increase transparency in the bidding process, the Government of Japan will disclose the scheduled price (*yotei kakaku*) for public works projects after the results of the tenders are released.

G. Legal Services

The current session of the Diet passed legislation that will:

1. Reduce the experience required to register as a *gaikokuho-jimu-bengoshi* (foreign legal consultant) from five years to three years, while at the same time reducing the amount of time spent in Japan that would count toward meeting that requirement from two years to one year.
2. Allow a foreign lawyer to count toward meeting the experience required to register as a foreign legal consultant, the time spent practicing the law of the lawyer's home jurisdiction in a third country.
3. Liberalize the ability of a *gaikokuho-jimu-bengoshi* to practice third country law with written advice from foreign lawyers qualified in that third country.

4. Expand the purpose of joint enterprises between *gaikokuho-jimu-bengoshi* and *bengoshi* with a view to enabling the joint enterprises to provide full legal services throughout the entire process including judicial and administrative proceedings in cases involving foreign legal matters.

H. Transparency and Other Government Practices

1. Public Comment Procedures

- (1) Reach a conclusion concerning an administrative measure for public comment procedures for the introduction, amendment, and abolition of regulations by Spring 1999.
- (2) “Central Government Reform Bill” (tentative translation) which provides that the Government of Japan shall consider utilizing and establishing a mechanism of public comment procedures for the purpose of reflecting public opinions in its policy-making process, and thereby securing fairness and transparency in the process (legislation submitted to the current session of the Diet).

2. Application Process

- (1) Review the examination standards for the issuance of licenses, permits, and approvals with the aim of clarifying, specifying, and quantifying the examination standards while minimizing discretionary factors.
 - (2) Simplify and speed up the examination procedures for licensing, permits and approvals with measures to be specified by the end of September 1998 and promptly implemented.
 - (3) Enforce strictly the Administrative Procedure Law.
3. Establish a study group to explore means of introducing the use of overall greatest value methodology for procurement by local governments, with a view to taking necessary measures, including submission of a bill amending the Local Autonomy Law, as appropriate, in FY 1999,

H. Deregulation Entity

Under the new “Three-Year Program for the Promotion of Deregulation,” the Government of Japan mandates the Deregulation Committee under the Administrative Reform Promotion Headquarters which consists of Prime Minister as its chairman and all cabinet ministers to: (1) monitor implementation of Japan's deregulation measures decided by the new three-year deregulation promotion program, and (2) address new deregulation challenges. In order to enable the Committee to execute these mandates, the Government of Japan announced on May 8, 1998, to expand the Committee's membership from seven to eleven, and decided to strengthen the function of its secretariat, especially that of conducting research upon the Committee's

request and established a new research division of about fifteen supporting staff on May 11, 1998, with a view to making the Committee's activities more efficient.

U.S. ITEMS OF INTEREST TO THE GOVERNMENT OF JAPAN

1. Structural Issues, Transparency and other Government Practices
 - (1) Buy America Clauses
 - (2) Measures under Ocean Shipping Reform Act of 1997
 - (3) Maritime Security Program
 - (4) Requirements to Transport on U.S. Flag Vessels
 - (5) Provisions requiring the use of ships built in the United States in the coastal shipping service
 - (6) U.S. and International Standards for Oil Tankers for the Protection of the Marine Environment
 - (7) Anti-dumping
 - (8) Anti-Monopoly Exemption Clause on Insurance Industry
 - (9) Visa Issuance Process

2. Telecommunications
 - (1) Federal Communication Commission's (FCC) Order on Foreign Participation in the U.S. Telecommunications Market
 - a. Licensing Criteria,
 - b. Regulations on Dominant Carriers, and
 - c. Standard Processing Period
 - (2) FCC's Order Concerning International Settlement Rate Benchmark
 - (3) FCC's Order to allow Non-U.S.-Licensed Satellites to Provide Services in the United States
 - (4) Method for Sharing the Costs for Utilizing Internet Communication Circuits.
 - (5) Implementation of LRIC to calculate interstate access charges in the United States at the same time as Japan does.
 - (6) Transparency in preparation of the Government of the United States' LRIC models.

3. Medical Devices and Pharmaceuticals
 - (1) Promotion of Mutual Recognition of Good Manufacturing Practices (GMP) of pharmaceutical and medical devices between the United States and Japan.
 - (2) Medical Devices: Simplification and Acceleration of Procedure 510(k) Notification Submission.
 - (3) Pharmaceuticals: Allowing the Notification to the Food and Drug Administration (FDA) after the Alteration of the Manufacturing Methods.
 - (4) Simplification of the data submitted for investigational new drugs (IND).

4. Financial Services
 - (1) An abbreviated examination system for licensing of Japanese and other foreign securities representatives, for conducting business with the NYSE, NASD, and AmEx exchanges.

- (2) Minimizing the overlap between federal and state securities registration requirements, and prohibiting states from limiting or imposing conditions on the sale of most securities.
- (3) Allowing bank holding companies and foreign banks with subsidiaries in more than one state to merge or consolidate these bank subsidiaries into a single bank with interstate branches (except in states that specifically prohibit such interstate branching networks).
- (4) An expanded list of activities (contained in Regulation Y) that bank holding companies and foreign banking organizations are permitted to engage in, to include: riskless principal, private placement, proprietary trading and other activities that had been previously approved only in individual Board orders; streamlined application or notification procedures for bank holding companies or foreign banks to engage in regulation Y activities or to acquire a firm engaged in such activities.
- (5) Amending Regulation K which governs the foreign operations of U.S. banks and U.S. operations of foreign banks, including revisions that would change how Qualifying Foreign Banking Organization status is calculated for purposes of determining eligibility for certain exemptions from nonbanking restrictions.
- (6) Financial modernization legislation to allow common ownership of banking, securities and insurance companies, subject to certain restrictions an affiliation with non-financial firms.