

COMMUNICATION FROM THE UNITED STATES

The following communication, dated 9 April 2001, has been received from the Permanent Mission of the United States with the request that it be circulated to the Committee on Government Procurement.

I am writing regarding the recent communication from the Permanent Mission of Japan regarding modifications to Appendix I of the Agreement on Government Procurement. This communication was circulated by the Secretariat on 19 March 2001 (GPA/W/129), providing 30 days for other parties to object prior to the modifications becoming effective.

The United States has no objection to the deletion of the National Education Center from the "List of Entities" for Annex 3 in Appendix I, on the basis of our understanding that the functions of this entity have been eliminated. The United States also has no objection to the addition of the "Government Pension Investment Fund" to the "List of Entities" for Annex 3. Further, the United States has no objection to the deletion of the "Pension Welfare Service Public Corporation" from the "List of Entities" for Annex 3, with the understanding that all of its functions have been transferred to the Government Pension Investment Fund.

However, with regard to the proposed addition of 57 Independent Administrative Institutions (IAIs) to the "List of Entities" for Annex 3 in Appendix I, the United States requires additional time to study and to seek clarification of this proposed modification.

The United States understands that these IAIs (together with three other IAIs that we understand will be created in 2002) have been assigned "90 undertakings of the government which are now operated by central government entities" that are listed in Annex 1 of Appendix I. To assist our assessment of the implications of the proposed modification, the United States requests that Japan provide responses to the following questions and requests for information:

1. What is the reason for seeking to move the IAIs from Annex 1 to Annex 3? Please explain why the new IAIs cannot simply be added to Annex 1, rather than creating a complex two-tier list of entities in Annex 3.
2. For each IAI that Japan proposes to add to Annex 3, what was the central government entity that was previously responsible for the procurement that the IAI will now conduct? Please provide a concordance table similar to the one provided by Switzerland in GPA/W/114.
3. Do any of the IAIs have internal sub-divisions, independent organs, attached organizations, other organizations or local branch offices, as those terms are used in Note 1 to Japan's Annex 1? If so, how does Japan intend to maintain the coverage of such entities?

4. What specific authority does the central government have over the conduct of procurements by IAIs? Does the central government have the same degree of authority over Annex 3 entities as over Annex 1 entities?

5. Will a central government entity listed on Annex 1 be responsible for overseeing the procurement of each IAI? If so, please provide a list of the entities responsible for each IAI.

6. What is the legal authority that would require the new IAIs to comply with the GPA?

Until we have had an opportunity to review Japan's responses to these questions, the United States will be unable to agree to the proposed modification with respect to the treatment of the IAIs. Thus, the United States must object to the proposed modification taking effect upon expiration of the 30-day review period. This is, of course, without prejudice to any conclusions the United States may reach on the basis of Japan's explanations. The United States will endeavour to conduct the necessary study and consultations as expeditiously as possible, and will keep the Committee apprised as to the progress and outcome of this review.
