

UNITED STATES - MEASURE AFFECTING GOVERNMENT PROCUREMENT

Request for Consultations by Japan

The following communication, dated 18 July 1997, from the Permanent Mission of Japan to the Permanent Mission of the United States and to the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

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I hereby extend a request on behalf of the Government of Japan for consultations with the United States pursuant to Article XXII of the Agreement on Government Procurement (hereinafter the "GPA") and Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes regarding the Act Regulating State Contracts with Companies doing Business with or in Burma (Myanmar) enacted by the Commonwealth of Massachusetts on 25 June 1996 (hereinafter the "Act"). This Act effectively prohibits the public authorities of Massachusetts, including all the executive offices covered by the GPA, from procuring goods or services from any person contained in the restricted purchase list solely because the said person does business with or is in Myanmar.

The Government of Japan considers that the measure is inconsistent with the obligations of the United States under the WTO Agreement, including, in particular, the GPA. The provisions of the GPA with which the measure appears to be inconsistent include, but are not limited to, the following Articles: paragraph 2 of Article III, paragraph (b) of Article VIII, Article X and paragraph 4 of Article XIII.

With regard to this request, I regret to point out that the United States has given no indication of a reply to the request dated 17 March 1997 from my authorities for information pursuant to paragraphs 1 and 3 of Article XIX of the GPA. The Government of Japan has also been very concerned about the recent legislative initiatives similar to the Act, which have been taken or proposed by the sub-federal authorities in the United States.

I look forward to receiving your reply to this request and hope that you can understand the intention of my authorities to hold the consultations at the same time as the European Communities, which are already scheduled with the United States for 22 July 1997.