

JAPAN - MEASURES AFFECTING
CONSUMER PHOTOGRAPHIC FILM AND PAPER

Request for the Establishment of a Panel by the United States

The following communication, dated 20 September 1996, from the Permanent Mission of the United States to the Chairman of the Dispute Settlement Body, is circulated at the request of the United States.

The Government of Japan has implemented and maintains laws, regulations, requirements and measures (collectively "measures") affecting the distribution, offering for sale, and internal sale of imported consumer photographic film and paper, including: liberalization countermeasures; distribution measures, such as, but not limited to, the cabinet decision, administrative guidance, and other measures listed in Attachment A; the Law Pertaining to the Adjustment of Business Activities of the Retail Industry for Large Scale Retail Stores, No. 109 of 1973 (*Daiten Ho*); Special Measures for the Adjustment of Retail Business; No. 155 of 1959 (*Shocho Ho*); the Law Against Unjustifiable Premiums and Misleading Representations, No. 134 of 1962; measures regarding dispatched employees pursuant to the Law Concerning the Prohibition of Private Monopoly and Maintenance of Fair Trade, No. 54 of 1947; the Law Concerning Enterprise Reform for Specified Industries, No. 61 of 1995; the Ministry of International Trade and Industry Establishment Law, No. 275 of 1952; and related measures.

The United States considers that such measures nullify or impair benefits accruing to it, within the meaning of Articles XXIII:1(a), as a result of the failure of the Government of Japan to carry out its obligations under Article III and X of the General Agreement on Tariffs and Trade 1994 (GATT). More specifically, the Japanese Government measures:

- were implemented and maintained so as to afford protection to domestic production of consumer photographic film and paper within the meaning of GATT Article III:1;
- conflict with GATT Article III:4 by affecting the conditions of competition for the distribution, offering for sale, and internal sale of consumer photographic film and paper in a manner that accords less favourable treatment to imported film and paper than to comparable products of national origin; and
- conflict with GATT Articles X:1 and X:3 because the measures lack transparency in that they were not promptly published and were not administered in a uniform, impartial and reasonable manner.

In addition, the application of these measures by the Government of Japan nullifies or impairs, within the meaning of GATT Article XXIII:1(b), the tariff concessions that the Government of Japan made on black and white and colour consumer photographic film and paper in the Kennedy Round, Tokyo Round, and Uruguay Round multilateral tariff negotiations.

On 13 June 1996, the Government of the United States requested consultations with the Government of Japan under Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and GATT Article XXIII:1. The United States request was circulated to the Members in document WT/DS44/1 (21 June 1996). The United States and Japan held consultations on 11 July 1996 but failed to settle the dispute.

Accordingly, pursuant to Articles 4 and 6 of the DSU, the United States respectfully requests the establishment of a panel with standard terms of reference as set out in Article 7 of the DSU.

The United States further asks that this request for the establishment of a panel be inscribed on the agenda of a special meeting of the Dispute Settlement Body and that such meeting be held on or before 3 October 1996.

ATTACHMENT A

MITI, "Administrative Guidance to Promote Rationalization of Distribution System", 1966

Cabinet Decision, "Liberalization of Foreign Investment", 6 June 1967.

MITI Industrial Structure Council Distribution Subcommittee, "Distribution Systemization", 1969. (*Tsusansho Koho*, 13 and 14 August 1969).

MITI Preparatory Survey, "The Actual State of Trade Practices in Photo Film", 1969.

MITI, "Film Trade Normalization Guidelines", 1970.

MITI, "Business Bureau Report on Film Prices", 1970.

MITI, "Basic Plan for Distribution Systemization", 1971.

MITI, "Manual for Systemization of Distribution", 1975.

MITI, "Guidelines for Improving Business Practices", 1990.

MITI and the Small and Medium Enterprises Agency, "Distribution Vision for the 21st Century", 1995 (and earlier versions for the 1970s, 1980s, and 1990s).

Photo Industry Distribution Information Systemization Council [Kyogikai], "Comprehensive Manual for Photo Distribution Industry Distribution Information Systemization", 1996 (and 1989, 1990, 1991, and 1992 versions).

Other related measures, including guidelines.