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 FOIA ID: F1997-066/6, D. Cohen
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| DOCUMENT NO. & TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|------------------------|---|-------------------|---------------|
| <i>entire folder</i> | | | |
| 1. memo | Nancy Risque to H. Baker re US-Japan negotiations on public works timeline, 4p <i>R 5/24/11 F97-066/6#69</i> | 3/4/88 | B1 |

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THE WHITE HOUSE

WASHINGTON

March 4, 1988

MEMORANDUM FOR SENATOR BAKER

FROM: NANCY RISQUE *Nancy*

SUBJECT: U.S.-Japan Negotiations on Public Works Timeline

Background: As you review the past history of these negotiations, you will see that the present Japanese offer falls far short of Prime Minister Takeshita's offer to the President in January as outlined below.

The Kansai Airport issue was raised with the Japanese in 1984 but pressure from U.S. negotiators really began in earnest in January 1986. The U.S. goal throughout the two years of negotiations was to open up the Japanese market for major projects procurement. I've included information on the last negotiation on Kansai Airport to illustrate where this negotiation has fallen short of the U.S. goal.

October-December 1987

Status of Negotiations:

- The U.S. and Japanese teams decide on a series of procedures that will allow U.S. firms to bid on Kansai Airport projects.
- Prime Minister Nakasone tells the President in New York that the procedures will apply to similar public works.
- The Japanese delegation is unable to deliver on the Prime Minister's commitment and says that only Kansai Airport and Tokyo Bay Bridge will be covered by these procedures.
- The U.S. side proposes that both sides draw up a list of projects to which the procedures would apply. The U.S. submits a list of fourteen projects.
- The Japanese side rejects this offer, stating that no projects directly managed by the Government of Japan can be addressed by these procedures.
- The U.S. breaks off negotiations. In a unilateral move, the Japanese send a letter embodying almost all the concessions discussed in Tokyo but applying these concessions to Kansai Airport and Tokyo Bay Bridge only.

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BY RW) NARA DATE 5/24/11

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- Since all Japanese Government projects are excluded from the offer, the TPRG votes to recommend to the EPC that the President take a 301 action against Japan, but postpones EPC consideration pending the results of Secretary Verity's visit to Japan in mid-November.
- During the Verity visit, Foreign Minister Uno issues a statement that there would be no changes in existing procedures to accomodate foreign bidders on government projects, and rejected the idea of bilateral negotiations on the subject.
- On November 25, 1987, based on Secretary Verity's report, the TPRG unanimously recommends 301 action to the EPC. EPC consideration of the issue is deferred in view of the impending visit of Prime Minister Takeshita.

January, 1988 -- The Takeshita Visit and Offer

- In preparation for the Takeshita visit, the Japanese Embassy delivered the attached proposal to the State Department on January 11. Both sides regard this document as the "Takeshita Proposal."

The proposal has two parts:

- 1) a willingness to make certain arrangements so that foreign companies can be designated in the bidding; and
- 2) a large enough group of special projects for foreign companies to acquire enough experience to enable them to enter into Japanese public works under the existing procurement system.

Verity Response

- On January 21, 1988, Secretary Verity responded (attached) that the Takeshita proposal met our minimum requirements to return to the negotiating table, i.e. acceptance of the principle that U.S. companies may bid on projects directly managed by the Government of Japan.
- He clearly indicates that the proposal leaves "so many questions unanswered that it is not possible at this point to determine whether it contains all the elements necessary to resolve this problem."

February 15-19

- Despite Verity's request for prompt negotiations, the Japanese stalled scheduling the first meeting until February 15.

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The U.S. position entering the negotiations was that the Takeshita proposal offered:

- 1) to carve out a list of special projects substantial enough to allow U.S. firms to claim prior experience in a wide range of construction goods and services; and
- 2) to establish special procedures to allow American companies to gain experience and that these procedures would be applied to future projects.

The Japanese Offer

The Japanese offer has two parts: a list of projects and a list of procedures that would apply to the projects. The structure of the proposal is in line with the Takeshita offer but the content falls short.

A. List of Projects

The Japanese list six projects to be covered by special procedures:

- 1) Haneda Airport Expansion
Total project value: Y450 billion; available for U.S. bidding Y110 billion.
- 2) Hiroshima Airport
Total project value; Y50 billion in runway construction; available for U.S. bidding Y40 billion in runway construction.
- 3) Akashi Straits Bridge
Total project value: Y383 billion (Y58 billion already commissioned); available for U.S. bidding unknown.
- 4) Ise Bay Highway
Total project value: Y590 billion (Y485 billion excluded); available for U.S. bidding unknown.
- 5) Metropolitan Expressway
Total project value: Y109 billion (Y29 billion already commissioned); available for U.S. bidding unknown.
- 6) Mirato Mirai 21 project
Total project value: Y230.8 billion (Y199.6 billion specifically excluded); available for U.S. bidding unknown.

Total Japanese projects: Y1812.8 billion; amount definitely earmarked for U.S. bidding: Y150 billion (8.3%).

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U.S. objections:

- The list of projects is too short to provide the U.S. construction industry sufficient experience to compete on other major projects.
- The work available for U.S. bidding is runway construction and earth moving. The projects exclude the U.S. from many important sectors of the construction industry (food services, people movers, radar).
- Furthermore, the U.S. is excluded from all terminal construction and related equipment on the two airport projects.

B. Procedures

- The procedures apply only to construction services worth Y700 million or more. No goods procurement is covered so U.S. earth-moving equipment, radar, security installations, etc. would not be covered.
- The procedures apply to consulting services worth more than Y25 million and requiring "high grade technical judgment". This could be used to freeze U.S. firms out of most of the market.
- The designation process remains a black box.

U.S. Counterproposals

In response to the Japanese offer, the U.S. negotiating team suggested the following counterproposals:

- eliminate the carve outs on the six projects; or
- add new projects; or
- generalize the procedures to include all public works.

All three options were rejected.

TPRG Recommendation

Based on this information, on February 25, 1988, the TPRG unanimously recommends that the President direct the U.S. Trade Representative to self-initiate and expedited section 301 investigation.