Policy Analysis

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Executive Summary

For decades the U.S. government has singled out Japan as a country guilty of particularly grievous protectionist policies and has forced on it special trade arrangements. But trade disputes are often simply the result of American firms' enlisting government help to make up for their earlier neglect of Japan's market. They seek managed trade, not free trade. Three cases are examined:

- U.S. claims that the Japanese government unfairly limits American auto and auto parts imports are based on phony statistics that purport to define America's "correct" share of Japan's market. But U.S. automakers offer only four right-hand steering wheel models in Japan, compared to more than 100 from European manufacturers who have managed to crack that supposedly closed market.

- With the 1986 semiconductor agreement, up for renewal this summer, U.S. officials tried to guarantee a share of Japan's market for American manufacturers and to restrict exports of Japanese-made chips to the United States and third markets. But Japan's "closed" market was an illusion created by America's selective use of trade and production numbers. With 1995 global sales of some $150 billion, American producers hardly need protection.

- Kodak's current complaint that Fuji Photo Film unfairly blocks its access to Japanese retail outlets is particularly ironic since Kodak repeatedly ignored advise to establish major offices in Japan, which it finally did only in the mid-1980s.

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Introduction

For years American trade policy has been getting pro- gressively more protectionist and aggressive, even as tradi- tional trade barriers such as tariffs have been lowered under the General Agreement on Tariffs and Trade (GATT). That trend has accelerated under the Clinton administration, which has pursued an openly "results-oriented" approach that has led to numerous bitter disputes--particularly with Japan. In singling out America's second largest trading partner for special criticism, administration officials have argued, inter alia, that certain "key" industries in the United States should be given government help to "crack open" Japan's allegedly closed markets and "invisible barri- ers";

that "aggressive unilateralism" (often justified politically under the rubric of "market opening") should be adopted to force Japan to accede to American demands; and that a form of "managed trade" should be employed to make Japan accept specific import targets for various products and industries.[1]

Such policies led to the so-called framework agreement with Japan in the summer of 1993 and the resultant series of confrontations and showdowns on issues that included insur- ance, flat glass, paper, telecommunications, aviation prod- ucts, wood products, regulatory policy, semiconductors, and photographic film. On June 28, 1995, the United States and Japan narrowly averted a trade war in the most prominent and politically sensitive sector--autos and auto parts.

Critics of the Clinton administration have argued that those policies are counterproductive, that they lead not to market opening but to government and bureaucratic manipula- tion of trade flows, and that they threaten the world trad- ing system that has been built increasingly around interna- tionally agreed-to rules established in multilateral negoti- ations.[2] There is, however, a more fundamental problem with current policy than its methods. The entire focus and premise of the approach is misguided: the major industries whose causes have been championed are quite simply not facing a closed market in Japan. Economic flows with Japan are substantially larger than most people realize and are not susceptible to simple analysis by comparing bilateral or, even worse, sectoral merchandise trade deficits.

This paper examines three of the biggest beneficiaries of the Clinton administration's trade policy--autos, semi- conductors, and photographic film. In each case, industry and government officials have argued that U.S. efforts to penetrate the Japanese market have been stymied by invisible barriers and that results-based solutions are required. But in each case, the argument is demonstrably incorrect. Results-based trade policy is not about opening markets at all; it is about granting special favors to prominent and politically powerful U.S. industries. It is about corporate welfare in the international arena.

Reversal of Fortune: Affirmative Action in the Auto Trade

Less than a year ago the United States and Japan were at the brink of a trade war. The Clinton administration and Detroit were pointing angrily at a 1994 bilateral merchan- dise trade deficit of some $66 billion, as well as a bilat- eral deficit of about $37 billion in the automotive sector, and beating the drums for an aggressive campaign to force Japan to accept increased purchasing targets for U.S.-made cars and auto parts. Japan's government officials and industry leaders dug in their heels. They categorically rejected Washington's managed-trade formula and threatened to take the case to the fledgling World Trade Organization.

At the last minute--with just hours to go before Ameri- ca was to impose a 100 percent tariff (or nearly a $6 bil- lion burden) on 13 Japanese luxury car models--the two sides reached a compromise at talks in Geneva. U.S. Trade Repre- sentative (USTR) Mickey Kantor hailed the agreement as a "significant step to fundamental change" and said the pact was "broad, detailed and quantifiable."[3] Japanese negotia- tors rejected that view, saying they had completely avoided any government guarantees, and privately rejoiced that they had refused to "cave in" to U.S. demands for specific market share figures.[4]

It is possible to debate the wisdom of American brink- manship, as well as to look skeptically at the supposedly "landmark" agreement that resulted. More fundamentally, though, there is a basic factual question: were Japanese market barriers--whether explicit or "invisible"--really keeping the Big Three American automobile manufacturers out of Japan? After all, until two years ago U.S. automakers did not even offer right-hand-drive cars to the Japanese market. With such complete disregard for consumers, how could Detroit expect to succeed?

The U.S. response has been that the problems with cracking the Japanese market can only be understood by looking at the long history of Japanese protectionism. Just a week before threatening Japan with a 100 percent tariff, Kantor said, "Through high tariffs, allocations of capital, and a range of other measures, the government of Japan in essence kicked foreign producers out of the market."[5] In light of the alleged history of exclusion and discrimina- tion--so the argument goes--the U.S. industry cannot be expected to make it in Japan without "affirmative action." Specifically, the implication is that the Japanese must offer redress for their past policies in the form of guaran- teed access to Japanese auto dealers and other benefits-- what Kantor referred to in the negotiations as a "down payment."

Neglecting Japan's Market

The historical evidence does not support the claim that the U.S. auto industry has been kept out of Japan--no matter where one picks up the story. After World War II both Ford and General Motors passed up opportunities to reestablish their significant prewar positions in Japan; toward the end of the occupation they turned down feelers from the Japanese government about setting up manufacturing facilities in Japan. The internal memorandum that Ford's international vice president, Arthur J. Wieland, wrote to Henry Ford II in April 1952 set the tone for many years of neglect. "I presently cannot foresee any major competition from the Japanese automobile industry anywhere in the world outside Japan, with the exception of China, Manchuria and Korea," Wieland wrote. GM's assessment was equally bleak.[6]

Again in 1960 Toyota took the initiative and proposed a joint venture with Ford to manufacture automobiles in Japan. The original proposal was for a 40-40-20 deal, with 20 percent ownership slated for the Japanese distributor. That was later sweetened to allow Ford 50 percent, but again the deal was rejected for a variety of reasons.[7] In his autobiography, former Toyota chairman Eiji Toyoda complained that "Ford's method of turning us down left a lot to be desired."[8] But still, he said, his company gave it one more shot in 1980, shortly before the Reagan administration imposed so-called voluntary restraint agreements--quotas--on Japanese car imports. This time, Toyota proposed joint production of their vehicle in the United States. "We attempted to form ties with Ford on a total of four occa- sions before and after the war, and in each case nothing came of our efforts," Toyoda wrote. "I suppose that we were never meant to become partners."[9]

Donald Frey, a senior engineer at Ford in 1960, explained his company's position on the aborted 1960 deal in an interview published in 1995: "We looked at small cars as money losers. Henry Ford II believed the finance guys who told him that. He was preoccupied with building up our European operations. At home in America, we had a big booming market. Japan was a nonfactor in our thinking. It never occurred to us that we might learn something from that deal. America was king of the hill; who the hell ever expected a little company called Toyota to be a world class competitor?"[10]

There were other lost opportunities for the Americans-- especially during what might be called the "modern era" of U.S.-Japanese trade, the years after 1964 when the yen became convertible in international markets and Japan's restrictions on investment were slowly but gradually liber- alized.[11] In 1969 Japanese automaker Mitsubishi defied the Japanese government and announced a venture with Chrysler that eventually grew to a 24 percent stake for the American company before Chrysler chairman Lee Iacocca started selling off Chrysler's interest in the late 1980s because of another cash crunch.

In 1971 Japanese automaker Isuzu agreed to sell a 34.2 percent stake to GM. In 1979 Ford took a 25 percent inter- est in Mazda. In none of those instances have the American companies used their investments to build a strong manufacturing or marketing presence in Japan or, for that matter, anywhere else in East Asia--with the possible exception of Ford, which has a large facility in Taiwan and a share of the number-three Korean manufacturer, Kia.[12] By contrast, Japanese auto companies currently have a 90 percent market share in the ASEAN countries of Thailand, Singapore, Indone- sia, Malaysia, and the Philippines and more than an 80 percent share of the Hong Kong market. The Americans are only beginning to make moves there and therefore face a tremendous uphill climb.[13] In effect, neglect of the Japa- nese market has led inevitably to a broader lack of effort throughout East Asia. In a moment of candor, Chrysler chairman Robert Eaton conceded that lack of commitment: "We expect to be only a niche player [in foreign markets]," he told a group of automotive journalists in Italy in 1994. "We don't have any volume goal or penetration goal. . . . We're perfectly willing to walk away from every single one of them [proposed overseas operations]."[14] Asked about Chrysler's overseas expansion plans early last year, Eaton said, "We have capacity limitations, so why bother."[15]

Trade Shocks--Protectionist Response

By the late 1970s, when the second oil shock hit, the Big Three essentially were unprepared to meet the Japanese challenge in either price or quality. Instead, they shifted gears and, in 1980, adopted protectionist strategies that-- often accompanied by some ugly stereotyping of the Japanese as economic predators--soon found favor in Washington. The 1980s was thus a decade of so-called voluntary restraint agreements, which placed an annual quota on the number of autos Japan could export to America. Significantly, Japan was the only car-exporting country singled out for such treatment by Washington, an action that may have been in violation of the nondiscriminatory rules under GATT.[16] Economists have estimated that the quota added approximately $2,000 to the price of an imported automobile during that period and cost the American taxpayer an additional $105,000 to $241,000 per job saved in the American auto industry.[17]

The Japanese responded to that blatant protectionism with massive investments in U.S. production facilities to insulate themselves from trade barriers. But the shift also allowed them to establish important design centers, vastly improve their marketing and sales efforts, and better con- trol and expand their distribution system. By 1994 the seven Japanese transplant factories in the United States were turning out a total of 2.1 million cars a year with more than 35,000 (American) employees. Several hundred thousand American jobs have been created directly and indi- rectly by the transplants over the past decade, including the dealerships that sell the luxury imports that were threatened with punitive tariffs.

During the past year America's Big Three exported a total of 38,111 cars to Japan from their American assembly plants. The Japanese transplants in America shipped more than twice that many to Japan--a total of 84,722 vehicles.[18] Conversely, the Big Three imported nearly twice as many cars into the United States (mostly from Canada and Mexico) as the leading Japanese automakers imported from Japan--2,249,500 vehicles imported by Ford, Chrysler, and GM in 1994 vs. 1,325,800 imported by Toyota, Nissan, and Honda. Yet Detroit and the Clinton administration continue to stress the alleged economic "threat" to American jobs posed by the Japanese companies.

Empty American Charges

Another favorite argument during the auto negotiations was that, in addition to the supposedly long history of exclusion, the Big Three are also blocked from the Japanese market by their inability to crack Japanese carmakers' networks of "exclusive" dealerships. Actually, there are no longer exclusive dealerships in either Japan or the United States. The practice of "dualing"--selling more than one brand from a single showroom--has been spreading in both countries for quite a few years. But old ways die hard in Canada and Europe, where American manufacturers are so strong and where 95 percent of American-branded production continues to be sold in exclusive showrooms. Ford actually insists on single-brand arrangements in its dealer contracts in Japan, and last October GM issued a memorandum to its American dealers reminding them that "General Motors brands are not commodities and should never be sold to the public from facilities that also offer competing brands."[19] Thus, in that area as well, U.S. complaints seem to be misinformed or hypocritical, or both.

Another argument made by the U.S. auto industry--and indeed a recurrent theme in American trade policy toward Japan--is that if U.S. companies have a large share of one market (say, Europe), then they should have a similar share of Japan's market in that product category, regardless of such other important factors as comparative advantage, historical marketing efforts, investment levels, product quality, and competition. A small market share in Japan therefore almost always is treated by U.S. government trade officials as ipso facto proof of a closed market. The Japanese government is then pressured to "fix" the situation by meeting "targets" unilaterally set by America.

The circumstantial market share evidence--apart from all its analytical shortcomings--is not as strong as the Big Three contend. For example, the two sides have never been able to agree on what the U.S. market share actually is in Japan. Before the agreement was reached, the USTR and the Big Three insisted it was less than 1 percent. A recent press release from the American Automobile Manufacturers Association, citing a 46 percent increase in Big Three sales in Japan in 1995, maintained the share was only 1.4 per- cent.[20] A closer look, however, shows that that is true only if the base used is the entire motor vehicle market in Japan, including buses, trucks, minicars (cars under 660 cubic centimeters [cc] engine displacement), and small passenger cars (660 cc to 2000 cc)--none of which the Big Three make for Japan. Once those vehicles are excluded from the calculation, the foreign share of the Japanese market in

1995 was 10.22 percent, and Big Three cars made in America had a 5 percent share.[21] On the other hand, the actual market share of U.S.-made vehicles for all of Europe is actually less than 1 percent, because virtually all Big Three cars sold in Europe are manufactured there. The Big Three exported a total of only 138,000 cars to Europe in 1994. The rest were made there. In fact, Japan buys nearly as many U.S.-made automobiles as all of Europe combined--a total of 119,000 in 1994.[22] Yet Japan is the country sin- gled out as the bogeyman in auto trade politics.

Another glaring example of numbers run amok came when the USTR needed to calculate the after-market parts sales ostensibly "lost" because of Japanese barriers. Under U.S. trade law, that figure would then be used to determine the level of retaliatory sanctions to be applied against Japan if no agreement were reached in negotiations. Obviously, the more the number could be inflated, the bigger the "stick" America would have to brandish at the bargaining table. The calculation job was assigned to the U.S. Auto Parts Advisory Committee, a 23-member panel of American auto industry officials that advises the USTR and the Department of Commerce on policy. APAC decided to compute the "aver- age" U.S. parts share of member-countries of the Organiza- tion for Economic Development and Cooperation--a whopping 20.41 percent--and then make the leap of faith that that is what American companies should be expected to get in Japan. With that legerdemain, if one "averages" the 77.53 percent share the Big Three have in Canada (where their transplants are located) and the 25.69 percent share they have in Mexico (more transplants) with their very small 3.57 percent share in Germany, their 1.8 percent share in France, their 2.54 percent share in the United Kingdom, their 2.28 percent share in Italy, and so on, as Sen. Everett Dirksen once said, pretty soon you're talking real money. That is how sanctions were set at $6 billion.[23] The simple fact is, however, that if one excludes the Big Three's Mexican and Canadian plants that reflect only intracompany trade, Japan buys more auto parts from the United States than does any other country in the world.

To this day, the USTR and the American car industry continue to dismiss or minimize the success in Japan of the European automakers--BMW, Mercedes Benz, Volkswagen, Opel, Rover, and Volvo--all of which invested heavily during the 1980s to build their own distribution channels, as well as effective marketing and service operations, each staffed by hundreds of employees. The Europeans sold an average of 125 autos per dealer in 1993, compared to the average 10 autos per dealer sold by the Big Three. European imports also have increased dramatically for more than 10 years, even posting a 31.5 percent surge in 1994 when the lingering Japanese recession continued to cut into total domestic sales. The Germans now have a larger market share in Japan than they do in the United States--largely because they have been willing to meet the demanding tastes of the Japanese consumer. The Europeans offer more than 100 models with the steering wheel on the right and 124 models with engines in the two-liter-and-under category, which represents 80 per- cent of the Japanese market. By 1993 European cars had captured nearly 35 percent of Japan's luxury car market, earning profits over the previous decade that one German auto executive described as "almost obscene."[24]

Open Japanese Markets

In fact, American stereotyping of Japan as a "producer" not a "consumer" society, or as a "closed" and "hostile" market dominated by "cartels," is extremely wide of the mark--especially in the auto industry. Japan has 11 dis- tinct automotive manufacturers, 8 of them producing cars, that compete ferociously against each other. Every year the Japanese produce hundreds of different models, giving con- sumers a range in choice on price, quality, styling, size, and service that sets a standard for the world. By con- trast, Ford introduced the first right-hand-drive car for the Japanese market at the Tokyo auto show in the fall of 1993. Chrysler followed the next year with the right-hand- drive Jeep Cherokee. The Big Three had (and have) no U.S.- made entries in the two-liter-and-under class.

In addition to the empirical evidence of market open- ness shown by the success of the Europeans, there also have been a variety of statistical studies and price comparisons carried out jointly by independent researchers, think tanks, and economists in both Japan and America. In all cases, the surveys contradicted the protectionist argument. Arguing against Clinton administration trade policies, William R. Cline of the Institute for International Economics reported that a recent study by IIE "did not find high protection [in Japan] in either autos or auto parts" and said that "the prices of domestic cars were not found to exceed those of imports by more than five percent." Cline also cited sur- veys conducted by Japan's Ministry of International Trade and Industry (MITI) and the U.S. Department of Commerce that "found that Japanese autos sold for the same prices in Tokyo as in New York, contradicting the protection argument."[25] In addition, two MITI/Commerce studies of average retail prices in the two countries showed little price disparity between Japanese and U.S. markets.[26]

On the question of quality, which Detroit executives maintain has been equalized, a 1994 study by Andersen Consulting Co. compared 71 parts manufacturers around the globe. The report rated 13 of the companies as "world class." Six of them had Japanese ownership. Overall, the report rated Japanese parts' quality 30 percent higher than American. It also concluded that Japanese labor costs in the auto industry--although higher in absolute terms--were lower than those in the United States, Germany, and the United Kingdom when indexed to productivity.[27]

But perhaps the most egregious claim by the Clinton administration and the auto industry was that they were conducting their crusade against Tokyo for the good of the Japanese consumer. In fact, data at the time of the negotiations showed that prices for American-made cars in Japan were substantially higher than for competing Japanese mod- els, despite the cheap dollar and the fact that there are absolutely no tariffs on foreign automobiles.[28] (The United States imposes tariffs ranging from 2.5 percent to 25 per- cent.) In 1994, for example, Ford's top-of-the-line Taurus (left hand drive only) sold in Japan for the yen equivalent of $35,330 (1994 average exchange rate of Y102.18), while the right-hand-drive Honda Accord went for $27,383, and the right-hand-drive Toyota Camry priced out at $26,943. Simi- larly, Chrysler's left-hand-drive Jeep Grand Cherokee (only the regular Cherokee comes with right-hand steering) was offered at $46,976; the Toyota Land Cruiser sold for $38,843. Some American car prices have come down recently, but disparities continue. For example, the current base price on the new Ford Taurus sedan is Y2.5 million, but the no-frills Toyota Camry went for Y1.64 million in 1995, and the comparable Honda Accord listed for Y1.8 million.[29]

Big Three Challenges

Even with increased American sales and investment in Japan, the Big Three face a very hard climb. Until early this year, despite years of promises and missed deadlines by Detroit, the Probe and the Cherokee were the only right-hand-drive U.S.-made cars being marketed in Japan. A third right-hand-drive vehicle, GM's Cavalier, is now being re-badged and sold by Toyota, but quality problems have been so severe that 75 percent of the cars have had to be repainted entirely after their arrival in Japan.[30] Only an unusually strong advertising blitz by Toyota seemed to be keeping sales on track for the 1996 target of 20,000 units.[31] Meanwhile, prototypes of the Chrysler Neon--hyped for years as the "Japan-car killer"--got decidedly poor reviews at the Tokyo auto show last October, while Ford's remodeled Taurus was rather well received.[32] The new Taurus (the fourth right-hand-drive vehicle made in the United States for export to Japan) went on the market in early March, but the Neon was not scheduled to arrive until late in the year.

GM once again delayed plans to begin marketing the Saturn in Japan, and other model introductions by the Big Three have been put off as well.[33] Capacity problems could also crop up. When demand is high in America--above 15 million units--the Big Three could have trouble filling Japanese orders. In the boom year of 1994, for example, when Detroit was racking up record profits and Japan was saddled with a very high exchange rate, the Japanese auto- makers actually gained market share in the United States-- partly because American assembly plants could not keep up with demand.[34] In 1995 Big Three exports of U.S.-made cars to Japan lagged well behind shipments of their European rivals, as well as behind exports by Japanese transplant factories in America. In a year when foreign car sales in Japan surged 31.2 percent, Chrysler, with a 6.6 percent increase over 1994, finished 9th in terms of unit sales among exporters, while Ford came in 10th (up 20.7 percent), and GM ended up a dismal 12th (up 5.6 percent).[35] (On the other hand, as noted earlier, the Big Three saw a large increase in sales in Japan of cars built by their European divisions.)[36]

Auto Pact Results

In light of the Big Three's tortured history and lack of effort in Japan, the idea that U.S. government interven- tion was needed to eliminate "invisible" barriers was a transparent absurdity. Demands for specific market shares amounted to nothing more than corporate welfare, pure and simple. Moreover, it was bound to be corporate welfare that could not work--and has not worked. Autos are a consumer product, after all. Even if all the claims about MITI's supposed market-fixing omnipotence were true, it is hard to see how the Japanese government could force 67 million Japanese drivers to change their purchasing habits at the snap of Uncle Sam's fingers.

What then were the actual provisions of the much-her- alded auto agreement? Not a whole lot in concrete terms. Japan did agree to remove four after-market items from the critical parts list--shock absorbers, struts, steering systems, and trailer hitches. The Japanese government and the individual auto companies agreed to reiterate the fact that dealers are free to sell any kind of cars they want. Various import promotion programs were agreed to by both governments, and various regulations were tinkered with. On the crucial issue of specific, guaranteed market share targets, Japan categorically rejected the Clinton adminis- tration's demands. But it was equally clear when the agree- ment was announced in Geneva at the eleventh hour on May 28, 1995, that the U.S. side was determined to graft its numbers onto the settlement in a kind of ex post facto propaganda blitz.

In the choreography of the compromise, the Japanese auto manufacturers released future business plans for the expansion of their U.S. transplant operations. But all of the plans had already been on the drawing boards, and none of them committed the companies to make specific parts purchases.[37] The joint announcement recognized that the plans "are not commitments and are not subject to the trade remedy laws of either country. Rather, they are business forecasts and intentions of the companies based on their study of market conditions and other factors. Both Minis- ters recognize and understand that changes in market condi- tions may affect the fulfillment of those plans."[38]

It was in this context that Ambassador Kantor--again, following the script--separately issued the Clinton adminis- tration's unilateral estimates that the agreement would lead to vast increases in purchases and market access. To wit: $6.75 billion in increased sales of U.S. parts to the Japa- nese transplants by 1998; $2.25 billion in increased parts sales to Japan; and 200 new American car dealerships in Japan by the end of this year, increasing to 1,000 by the end of the decade--when the Big Three "expect" to have annual sales in Japan of 300,000 vehicles. But the joint announcement by the two governments explicitly--and in two separate places--rejected those figures as well: "Minister Hashimoto said the Government of Japan has had no involve- ment in this calculation because it is beyond the scope and responsibility of the government. He said that USTR's estimates are solely its own."[39]

It was clear by the next day, however, that the Clinton administration and the auto industry would seek to make the numbers stick through sheer repetition, by increased pres- sure, and, if necessary, by the future use of the sweeping America trade laws.[40] Since then, the Japanese government, the Japanese Automobile Manufacturers Association, and individual Japanese auto companies have all released state- ments or written letters specifically rejecting the American forecasts or requesting an official explanation of how the USTR arrived at its estimates, or both.[41]

Thus, the reversal of fortune sought by the U.S. side almost guarantees continued friction in the auto sector-- friction that is likely to be exacerbated at some point by the vicissitudes of presidential politics. Contributing to the volatility of the situation is the fact that American "expectations" have been given such a high profile and are almost surely impossible to meet. Total Big Three sales to Japan last year were 76,822 units (38,111 from the United States and 38,911 from their plants in Europe). Even if Japanese imports were to continue growing at last year's rate of 31.2 percent (current forecasts predict a rise of only 16 percent this year), and even if Big Three growth were to match that rate, Detroit would still fall short of its 300,000 sales target.[42]

Toyota recently looked at the problem from a slightly different perspective. Assuming U.S. automakers sign up 1,000 additional dealers by the year 2000 (to add to the approximately 1,000 they already have), and assuming the 300,000 vehicle sales expectation is achieved, the net gain averages out to fewer than 150 cars per dealer. Toyota noted that even though its dealers are the most profitable in Japan, none of them sells fewer than 500 cars and still makes a profit.[43] In other words, the overall business plans of the Big Three might benefit from some serious revision if the American manufacturers hope to entice new sales outlets into the fold. After all, the relatively modest gains the Big Three have been making in Japan over the past few years are due to substantive changes such as right-hand-drive model introductions, better quality, and increased advertising--not to the political jawboning of Washington. As Ford Japan spokesman Hiroo Tanabe put it recently, "The increase in U.S. car exports to Japan has nothing to do with the bilateral agreement. It's entirely because of the companies' efforts."[44]

Of course, the numbers game is fraught with difficulty no matter who is adding up the figures. The Big Three and USTR forecasts may not turn out to be impossible, but they are nearly so. One thing is certain: if there is a short- fall, the responsibility for the failure will be placed squarely on Japan.

Original Sin: A Chip off the Old Block

Another problem that has the potential for future fireworks is the U.S.-Japan Semiconductor Agreement, which is due to expire on July 31, 1996. The agreement, original- ly signed in 1986, has been condemned by free traders as managed trade at its most egregious and lauded by supporters as the model for what a trade agreement should be.[45] The first incarnation of the pact came about as a result of a worldwide recession in the semiconductor industry and the desire of American producers to win some running room to escape what they perceived to be the growing danger from their Japanese competitors, especially in the DRAM, or memory chip, market. A combination of American threats and sanctions led ultimately to an agreement, which was subse- quently and unilaterally interpreted by U.S. trade officials as setting a specific (20 percent) market share target for foreign sales in Japan and establishing strict anti-dumping controls. The latter feature not only created an artificial floor price for Japanese semiconductor companies in the United States; it also forced the government of Japan to police prices in other markets throughout the world.

The Clinton administration and the U.S. semiconductor industry are now lining up in an effort to win a second five-year extension of the agreement, with high-ranking government officials in particular staking out strong public positions. Since March 1995, U.S. Ambassador to Japan Walter Mondale, USTR Kantor, Commerce Secretary Ronald Brown, Vice President Al Gore, Secretary of State Warren Christopher, and President Clinton have all issued state- ments supporting extension. The president's position was laid out in a letter to the head of his Advisory Committee on Trade Policy and Negotiations in which he said, "The current agreement holds great potential for further prog- ress, and we will continue to actively pursue its renewal in the days ahead."[46] By contrast, Japanese government offi- cials and industry leaders said they were completely opposed to a renewal and predicted another contentious trade battle if Washington pursued the issue.[47] MITI vice minister Yoshihiro Sakamoto said Japan had "no intention to renew or extend" the pact, noting "the arrangement has accomplished its historical role."[48]

The Booming U.S. Industry

Indeed, it is hard to picture a U.S. industry less in need of government assistance. The worldwide industry has enjoyed several years of explosive growth, having doubled in size over the past three years to achieve global sales of approximately $150 billion for 1995. Initial forecasts placed 1996 growth in the high double digits, with In-Stat, Inc., a leading market research firm in Arizona, predicting a 24.9 percent sales increase to just under $180 billion.[49] The U.S. industry arm--the Semiconductor Industry Associa- tion (SIA)--was even more bullish, forecasting 26 percent worldwide growth. Since those estimates, however, softening demand and excess capacity have combined to bring about a downturn, particularly in the memory chip market. As a result, In-Stat has reduced its overall 1996 growth forecast to 12 percent, a figure that a company analyst noted was "not disastrous by any means."[50]

American firms nevertheless maintained their lead in world market share for all types of chips (recaptured in 1993), holding a slight edge over Japan at the end of last year (39.8 percent and $61.6 billion in sales vs. 39.5 percent and $61.1 billion in sales).[51] Moreover, the U.S. companies held a significant lead in more diversified tech- nology, having long ago moved away from "commodity" memory chips like DRAMs and toward more complicated microproces- sors, logic chips, and other higher value-added products.[52] Japanese firms, on the other hand, continue to specialize in memory chips. In 1995 the United States had 3 companies among the top 10 in sales, including Intel, which led the world for the fourth consecutive year, chalking up revenue of $13.8 billion (a 37 percent increase over 1994) and capturing a global market share of 8.9 percent. Motorola's semiconductor sales totaled $9.1 billion, a 27 percent annual rise; and Texas Instruments had $8 billion in semi- conductor revenue, a 44 percent increase. Profits were also at record levels.[53]

The foreign share of the Japanese market for 1995 was 25.4 percent--well above the 20 percent target "expectation" incorporated into the pact by Washington and Tokyo when they last renewed the agreement in 1991. In the fourth quarter the foreign share reached 29.6 percent.[54] Foreign sales in Japan have jumped more than 10-fold since 1986, rising from $900 million to $9.53 billion in 1995.[55] American firms, meanwhile, racked up total sales in Japan last year of more than $7 billion.[56] In the lucrative microprocessor market, U.S. companies (mostly Intel at 64.2 percent in 1994) have taken more than a 77 percent share in Japan.[57] Texas In- struments had semiconductor sales in Japan in 1995 of more than $2 billion, while Motorola and Intel had chip sales in Japan of more than $1 billion each.

It should be noted that, despite the success of Ameri- can and other foreign firms in Japan, there has been no move on the part of the Japanese government or semiconductor industry to institute protectionist measures of their own. It is worth asking, for example, what the reaction would be in Washington if a single Japanese semiconductor company (like Intel in Japan) were to capture well over 60 percent of a key market segment in America. Given the tremendous political and protectionist backlash that occurred in the United States in 1985-86 (when the combined Japanese share of the American DRAM market was only about 20 percent), the answer to the question could be quite alarming.[58]

Beyond the rising market shares and profits, moreover, there is a more fundamental shift in the entire structure of the semiconductor industry, with American, Japanese, Europe- an, and Korean firms locked into literally hundreds of so-called design-ins, alliances, and joint ventures. Given the huge capital investments required for new plant (or "fab") construction, research, and design, it is inconceivable that the trend will change in the near or medium term. That represents a sea change from the situation in 1985, when U.S. producers were getting out of the memory chip market and many industry experts were predicting the Japanese would leverage their dominance in that segment to overwhelm the semiconductor and, eventually, the computer markets. As it happened, those fears proved groundless. Explosive demand in the personal computer industry--especially in the United States--gave American producers the chance to grow rapidly and lock in high profits. Japan, meanwhile, had to contend with increasingly aggressive and sophisticated competition, not only from America, but from Korea and Taiwan as well. For example, the Korean company Samsung, now the world's leading DRAM producer, had 1995 worldwide revenue of $8.3 billion, a 73 percent increase over its 1994 performance.[59]

Given the last decade's massive changes, U.S. producers would seem to have little to complain about regarding access to Japan or, indeed, any other country in the world. With high prices and record profits, the American companies would seem to have nothing to complain about regarding dumping. Those two facts alone remove the entire raison d'être for the semiconductor agreement.

Even advocates of extending the agreement cannot point to any positive goals that they think a new agreement could accomplish. Early on they abandoned the idea of ratcheting up the 20 percent market share target; now they are prepared to drop any specific mention of market share altogether.[60] The best rationale supporters of renewal offer is that an extension is somehow necessary to preserve and consolidate past gains by the U.S. industry--what might be dubbed the "chicken soup" argument (as in "it couldn't hurt"). That raises the fundamental question: to what extent is the agreement responsible for the U.S. industry's resurgence?

Effects of the Semiconductor Agreement

To answer, we need to go back once again to 1985, when global recession hit the semiconductor industry.[61] Sales fell by 20 percent across the product spectrum, but the market for DRAMs--the commodity memory chips essential for storing and retrieving data--was hit by a 60 percent con- traction. Japanese companies were also taking losses during that period and actually began losing share in the American DRAM market in the two years after 1983, but that fact was obliterated in a deluge of legal and administrative actions by both government and industry officials.[62]

In June 1985 the SIA filed a Section 301 petition with the USTR. That was followed by a string of suits by indi- vidual firms claiming Japanese companies were dumping chips at below-average cost, and finally--in an unprecedented action--the Department of Commerce filed a self-initiated anti-dumping suit. (Interestingly, the first dumping action was filed by Micron Technologies of Boise, Idaho, a rela- tively small semiconductor company that specialized in DRAMs but which was not even a member of the industry association at the time.) The SIA petition sought a guarantee of in- creased access to the Japanese market and assurances that the Japanese government would force its semiconductor compa- nies to raise prices, not just in the United States but in third-country markets as well.

The SIA based its demands on the now-familiar "market share shuffle," in which Washington cites low share in Japan as proof of a rigged economy. The arithmetic worked out this way: the U.S. industry had 83 percent of sales in its home market, 55 percent in the European market, 47 percent in the "rest of the world," but only 11 percent in Japan.[63] "These trade figures," the SIA argued, "coupled with Japan's protectionist heritage in microelectronics, strongly suggest that market barriers still exist in Japan."[64] A "strong suggestion" is hardly a compelling argument, a fact that underscores the heavily circumstantial case assembled against Japan. Indeed, the fact that no specific impediment to imports could be identified meant that Tokyo had no effective means of rectifying the situation.

There was a lot wrong with the industry argument, apart from its vagueness. For one thing, the 11 percent figure was a deliberate distortion. If captive production--that is, chips produced by semiconductor firms for their own use--was excluded from the count, as it was when computing the foreign share of the U.S. market, American companies already had about a 20 percent share of the Japanese market in 1985. That was, coincidentally, about the same as the Japanese share of the American market at the time, a situa- tion that lasted for several more years.[65] Conversely, when captive production was not excluded from the U.S. calculation, Japanese firms had a 12.3 percent share of the American market in 1984, a 10.6 percent share in 1985, and only a 9.8 percent share in 1986 at the height of the push to force Japan into an agreement.[66] Another problem with the SIA's position was its assertion that the Japanese government "unfairly" subsidized its semiconductor firms, while in actuality U.S. government assistance for private semiconductor research and development (R&D) was about 10 times Japan's in 1986.[67] There were also severe quality and delivery problems with many of the American chip prod- ucts. A Hewlett Packard study released in the 1980s showed that the failure rate of American semiconductors was six times the rate of Japanese semiconductors.[68]

In the end, Japan was forced to give in to most of the U.S. industry demands, including the two most noxious--on the issues of market access and third-country dumping. Interestingly, the American negotiating team did not seem to have the slightest concern about how those aspects of the agreement would be enforced. In effect, MITI was left to cajole and hector its angry semiconductor companies into a government-led cartel. MITI would somehow control export prices to the United States and to the rest of the world. MITI would exhort the companies to buy more American product so that the foreign share of Japan's semiconductor market might--it was hoped--surpass 20 percent within five years. MITI would ensure that Japanese companies would comply with the onerous quarterly reporting requirements necessitated by the agreement. If there were a problem, MITI would fix it.

And there were--almost immediately--problems. While the artificial controls drove up chip prices sharply in the United States, some two to eight times in the initial months after the agreement before abating somewhat, the market distortions created an arbitrageur's dream.[69] Some of the "arbitrageurs"--more commonly known as smugglers--took advantage of the bargain basement prices in Japan, where the average chip cost at least $2 less than elsewhere, and flew hither and yon with satchels and suitcases stuffed with semiconductors. One bag of smuggled chips might save a savvy buyer from the United States or Europe tens of thou- sands of dollars.

What was the USTR's and the SIA's response to that burgeoning "gray market"? Call MITI. By early 1987, with only several months elapsed since the signing of the agree- ment, the United States renewed its complaints about market access and--particularly--Japan's failure to curtail third- country "dumping." Given the ease with which such tiny and valuable commodities could be transported, that was somewhat analogous to insisting that American law enforcement offi- cials effectively--and instantaneously--stop the smuggling of drugs into the United States. MITI did the only thing it could: arrange for its semiconductor industry to cut produc- tion in an effort to drive up prices. Amazingly, that was greeted by screams from the SIA that MITI was trying to create "artificial shortages."[70] In April, still dissatis- fied with Japan's efforts at compliance, the Reagan adminis- tration imposed 100 percent retaliatory tariffs on $300 million worth of Japanese power tools, computers, and TV sets. Tariffs were deliberately not set on semiconductors themselves because they were essential to so many American businesses.[71]

But as luck would have it, just as Japan's production controls and monitoring "improved," so did the global demand for semiconductors. The resulting chip shortages and higher prices, particularly on the spot market, caused huge disruptions for a wide range of U.S. manufacturers, curtailing sales and profits, delaying new product introductions, and angering consumers who were forced to pay more for less product and less service.[72] Chip prices stayed high until well into 1989. While U.S. computer makers were nursing their wounds, Japanese semiconductor companies received windfall profits that helped fund new research projects, design centers, and, eventually, their own factories in the United States. One estimate was that the windfall came to between $3 billion and $4 billion annually.[73]

Retaining Failed Policies

After that debacle, complaints about Japanese dumping faded away. Throughout the 1990s tensions under the agreement have focused instead on market access--in particular, on the quarterly fluctuations of foreign market share in Japan. That new obsession has been based on the famous "secret" side letter to the agreement, which mentioned a target of 20 percent market share for foreign semiconductor suppliers. Specifically, the government of Japan said it "considers that this can be realized" but noted that "the attainment of such an expectation depends on competitive factors, [and] the sales efforts of the foreign-affiliated companies."[74] To Japanese negotiators, that hardly constituted the guarantee the United States insisted it was. Later, when Japan reluctantly signed the 1991 extension that incorporated the 20 percent "expectation" into the body of the agreement itself, Tokyo tried once again to dodge the managed-trade bullet with this seemingly unequivocal lan- guage: "The two governments agree that the above statements constitute neither a guarantee, a ceiling, nor a floor on the foreign market share." Nonetheless, when the foreign share dipped to 18.1 percent in the third quarter of 1993, USTR Kantor called for "emergency" talks because of "serious concerns regarding Japan's commitment."[75]

Given that history, it is perhaps not surprising that for Japan the semiconductor agreement, and others like it, with overt or implied market targets, has taken on the aura of original sin. Indeed, as recently as February 8, 1996, the USTR was replaying the old 1986 mantra: U.S. firms had a 50 percent share of Europe's chip market and a 40 percent share of the Asia-Pacific market, excluding Japan, and that was substantially more than they had in Japan.[76] Actually, according to Dataquest figures for 1995, the U.S. share of the European market was 44.8 percent and its share of the Asia-Pacific market was 33.3 percent. On the other hand, Japan's share of the European market was only 20.2 percent and its share of the North America market was 23.4 percent, both well below the 39.5 percent world share held by its semiconductor companies. Using the USTR's simplistic logic, it would seem that Japan would have a right to file a Super 301 case against the European Community and the United States. But Japan does not have a Section 301 law. Only America does.

While MITI pressure over the years has no doubt ac- counted for some rise in U.S. market share in Japan, market forces and changes in the industry have been running in the same direction. Demand for chips in the Japanese market in the late 1970s and early 1980s was driven largely by the country's enormous consumer electronics industry, which accounted for 47 percent of total domestic usage compared to just 8 percent in the United States. Because the same firms in Japan produced both electronics and semiconductors, a great deal of Japanese chip production was essentially captive.[77] While that was also true for such vertically integrated U.S. firms as IBM, AT&T, Hewlett Packard, and DEC, most American producers were independent merchant firms that catered to the huge domestic data-processing market. U.S. merchant companies, therefore, were neither geared up to meet the structural demand differences of the Japanese market nor initially prepared to match the quality and huge investments of Japanese firms in the DRAM segment.[78]

That situation has completely changed, however. As noted earlier, American producers have long been dominant in the microprocessor, custom, and advanced logic chip seg- ments--precisely the areas that have seen the largest demand increases in Japan and, indeed, worldwide. In the last four years alone, the Japanese personal computer boom has lifted the overall computer segment in Japan from a 31.9 percent share to a 37.1 percent share.[79] Similarly, the consumer equipment segment in Japan fell from 42.5 percent of the market in 1991 to 34.6 percent in 1994.[80] The overall semiconductor demand ratio of major Japanese users is now 68.2 percent industrial and only 31.8 percent consumer.[81] Moreover, as we have seen, the increasing sophistication and cost of new chip design and production facilities have made international joint ventures and alliances a financial and competitive necessity.

If the original semiconductor agreement was a politi- cally misplaced overreaction to a vastly exaggerated prob- lem, today's calls for an extension make absolutely no sense in any context--except as continued government largesse for an industry that requires none. All the agreement has done is reduce competition in the Japanese market, by reserving 20 percent of it for foreigners, and set a terrible prece- dent for dealing with trade frictions.

Candid Camera? or Just Déj‡ Vu All Over Again?

Even before the U.S.-Japanese auto talks ended in Geneva, the wheels were turning in Washington to involve the Clinton administration in yet another nasty dispute with Tokyo--this time on behalf of the Eastman Kodak Company.

The offensive was launched on May 18, 1995, when Kodak submitted a Section 301 petition to the USTR claiming its leading competitor, Fuji Photo Film, had engaged in anti- competitive practices in attempting to control much of the distribution of consumer film and paper in Japan. Kodak executives also claimed that Fuji had colluded with the Japanese government in that effort and said that Kodak had lost $5.6 billion in sales because of it. Once again, the government was quick to accept the case. American trade law requires the USTR to take action by July 3, 1996, although there is some flexibility for delay.

Initially, the American media were almost docile in their acceptance of Kodak's version of events, which was contained in an elaborate 294-page "history" written and researched by the Washington office of the law firm of Dewey Ballantine. The New York Times carried an editorial--pro- vocatively entitled "Tokyo's Trade Hypocrisy"--that attacked Fuji even before the company could defend itself. "Kodak garners only about 10 percent of film sales in Japan, as against Fuji's 70 percent, though Kodak has a 40 percent share of Europe's market," the newspaper declared in a now- familiar echo of the standard argument. "The meager sales cannot be attributed to indifference, the case with American car makers in Japan. Kodak has competed in Japan for over 100 years, investing substantially to penetrate the market. . . . To be fair, Fuji has not had the opportunity to re- spond to the charges. But Kodak's case will be tough to refute."[82] Similar negative accounts appeared across the country.

At the end of July 1995, however, Fuji responded to the Kodak offensive in a way that has become something of a milestone in bilateral trade relations, as the Japanese company forcefully refuted the charges in a 585-page rebut- tal. At high-profile news conferences in Washington and Tokyo to release the report, Fuji's top officers took per- sonal umbrage at their competitor's tactics, using words like "shameless" and "false" to characterize the allega- tions. They even singled out Kodak chairman George M. C. Fisher by name for cynically trying to exploit trade ten- sions between the two countries.

With Fuji's counterpunch, the U.S. media--almost col- lectively--seemed to ease their earlier harsh criticism of the Japanese company. On the very day of the Fuji news conference, the Wall Street Journal ran a lengthy front-page story examining instances of Kodak's allegedly anti-competi- tive behavior in the United States, noting that, "as it happens, Fuji has a good deal of support in the U.S. indus- try and among past and present Kodak customers."[83]

Since then, literally thousands of pages of legal briefs, documents, reports, press releases, exhibits, and surveys have been offered up by both parties to the business battle, but the two sides appear no closer to a resolution. The USTR and Kodak take the position that the issue is a government-to-government matter and have been vainly seeking direct negotiations with MITI. Tokyo rejects that notion, noting that Japan, like other countries, has legal remedies for such complaints and suggesting that Kodak take its case to the Japan Fair Trade Commission. Tokyo also refuses to engage in any negotiations under the unilateral threat of Super 301 sanctions, which it quite correctly points out are at odds with international rules. MITI vice minister Saka- moto, in a recent letter to the USTR, expressed a bit of exasperation with the American approach: "I wonder for what reason you keep asking for such consultations or negotia- tions even after we have repeatedly explained our posi- tion."[84]

Kodak in Japan

There are basically two ways to analyze the Kodak-Fuji dispute: one, as a case study of how an American or any other foreign firm should or should not conduct business to be successful in Japan and, two, as a complicated antitrust proceeding with international legal ramifications. Kodak's arguments fall short on both counts, but it is essential to trace the history of the American photographic giant in Japan to understand why.

In their petition, Kodak's attorneys assembled a wealth of information--some of it accurate, some of it irrelevant, some of it misleading, most of it rather outdated--to sup- port their contention that Fuji and the Japanese government are the culprits. So at first glance, it is not surprising that the New York Times and others could have been taken in by the "weight" of the evidence.

Or is it? The funny part about the Kodak story is that it is, quite literally, famous--not among the general public certainly, but among consultants, business professors, and other professionals who study such things for a living. A quick check with any of those sources would have turned up quite a different story from the one being promulgated by Dewey Ballantine. In fact, the management literature is unanimous in its criticism of Kodak for neglecting the Japanese market and failing to recognize Fuji's competitive challenge. The most compelling example comes from veteran business consultants James C. Abegglen and George Stalk Jr. in their 1985 landmark book Kaisha: The Japanese Corpora- tion.

> The urgent prospect that one of America's leading companies might be outpaced by a once-insignifi- cant Japanese company is the result of Eastman Kodak's delay in responding to Fuji's competitive challenge. Although Eastman Kodak has been in business in Japan for more than 65 years, it does not yet have manufacturing or research and devel- opment facilities in Japan. Nor does it have control over its sales in Japan. It continues to sell through an agent, maintaining a liaison of- fice with no direct sales force or sales manage- ment, and only indirect influence on pricing and promotion. . . . Kodak can no longer stop Fuji, but it might be able to deflect Fuji's energies, exercise some control over Fuji's cash flow, and bring its considerable strengths to bear against this key competitor.[85]

Former Time correspondent Robert C. Christopher, in his 1986 book, Second to None: American Companies in Japan, tells a similar story.[86] More recently, a writer rather more sympathetic to the view of Japan as a historically difficult and closed market came to the same conclusion. "And still others, including Eastman Kodak, simply did not make a serious effort to invest."[87]

That view has been corroborated by Kodak insiders as well, most notably by Albert Sieg, president of Kodak Japan from 1984 to 1991 before he retired from the company to begin his own consulting business. In an interview with Look Japan published in 1988, Sieg gave the first detailed account of how Kodak finally responded to the Fuji challenge and lamented, "We should have been here with this approach 10 years ago. . . . We aren't really saddled with any barri- ers. The import regulations in this country and in the U.S. are basically a wash. If you have a good product and you persevere, and you have a head office that is not looking for results week by week but is willing to support you through over the long-term, you can succeed."[88]

But success, even after Kodak became gradually more aware of Fuji's potential threat, did not come quickly-- mostly because the Rochester, New York, company did not do anything about the problem. Throughout the 1950s, 1960s, and most of the 1970s, Kodak had no employees in residence in Japan. One of their executives paid occasional visits to Tokyo for periodic meetings with Nagase, Kodak's exclusive distributor, but his office was buried deep within that Japanese company, and he had absolutely no input into day- to-day operations. In 1977 that began to change, but only slightly. Kodak reestablished Kodak Japan (the prewar entity) to provide Nagase with some modicum of marketing and technical support, and that effort grew to an 11-person office by 1983.[89] By that time, American consultants and Tokyo-based businessmen had been practically begging their Kodak colleagues to do something to confront Fuji, or at least harass them behind their lines.[90] The situation was desperate. As Sieg says in his recent book,

> I demonstrated to the company [in 1983] that Japan was the second largest market for photographic goods in the world and that our position there was deteriorating at an alarming rate. . . . If we didn't take swift and strong action, Kodak would be out of the consumer photographic business in Japan within several years. In addition, we'd let our arch rival, Fuji Photo Film, build up a safe haven in its home country with virtually no chal- lenge from Rochester. . . . [Kodak chairman] Colby Chandler then asked me to go to

Japan and build a business from the ground up--a challenge I couldn't resist.

We started in Tokyo with a handful of Ameri- cans and Japanese, and when I left, Kodak Japan had more than 4,000 employees, a state-of-the-art R&D facility, and several manufacturing sites. To "jump-start" Kodak Japan, we engaged in a strategy of aggressive mergers and acquisitions, at one time controlling more than 40 companies involved with various aspects of photographic film distri- bution and electronic imaging research. Eventual- ly, we consolidated the company into one primary company, of which I served as president, and three subsidiaries, each with their own Japanese president at the helm.[91]

So Kodak did indeed become a success story in Japan. By the end of the decade, the company had revenues of more than $1 billion annually, certainly not "meager" by any standard. Moreover, Kodak achieved its position by "violating" some of the cherished negative myths about doing business in Japan:

- First, it was able to quickly expand its presence and gain control of its sales and marketing strategies by buying out its Japanese agents and incorporating them into the larger entity, albeit not without some ruffled feathers and initial hard feelings.
- Second, it was able to set up its own in-house dis- tribution system and bypass less efficient third parties.
- Third, it was able to integrate a largely Japanese staff into its operations over a very short period of time.
- Fourth, it was able to attract top talent from Japa- nese universities and even from Japanese companies by virtue of the credibility gained through its massive capital commitment, marketing presence, and research capability.

When the Kodak blimp dramatically appeared above the Tokyo skyline in 1986--Kodak having cornered the only avail- able license to operate one in all of Japan--the initial psychological challenge to Fuji was probably even bigger than the competitive one.

But unfortunately for Kodak, the story does not end on that high note. Fuji was not about to roll over and play dead, and by that point it had the technological know-how to meet the invasion head-on, beating Kodak to market by a full two years with each of two trend-setting innovations. The first was the "single-use" camera, introduced in the spring of 1986; the second was high-speed ISO 400 color negative film, launched in 1989. Even in 1985 Sieg knew he was fighting essentially a rear-guard action, rather than a battle that offered prospects for a clear victory. Asked at the time what Kodak hoped to achieve by entering the Japa- nese market so late in the game, Sieg replied, "We believe we can be a lot stronger No. 2 here. But our strategy in Japan isn't just profit motivated. It's also to learn how to do business against our competition in their home terri- tory. We believe that will be a major asset to us as we compete with them in the rest of the world."[92]

That has certainly proved to be the case. The two companies have fought to a virtual draw in terms of world market share. The sales statistics cited by Kodak's lawyers in an effort to prove Japan a "closed" market are essential- ly reversed for the United States. Kodak controls 70 per- cent of the consumer film and paper market here, while Fuji has about a 10 percent share. Kodak has a slight edge in the rest of the world, 36 percent to Fuji's 33 percent, according to various industry sources.

Kodak Japan: The Inside Story

Because of Sieg's key role as an architect of Kodak's resurgence in Japan in the 1980s, I conducted a series of on-the-record interviews with him during the summer of 1995 about his past experiences and his views of Kodak's present trade strategy. A caveat should be made. Sieg is a loyal Kodak alumnus. He strongly believes his former company has assembled impressive evidence of past anti-competitive practices by Fuji and weak antitrust enforcement in Japan compared to the United States. In the interviews, however, he repeatedly made the point that "most of the activities that seem to be cited [by the Dewey Ballantine report] are ones that primarily occurred a number of years ago" and that he had "no knowledge whether those still exist or not." After an article based on those interviews was published, he amended his position by stating, "I believe that these same barriers are still effectively in place today."[93]

That aside, Sieg raised fundamental criticisms of key aspects of Kodak's current strategy. To wit: Kodak's unfor- tunate decisions, after Sieg's departure in 1991, to insti- tute severe staff cutbacks in its Japanese operations, eviscerate its R&D facility in Japan, reduce capital invest- ment in the country, summarily cancel the employment con- tracts of eight new hires in 1993, and pursue the current round of confrontational trade tactics in concert with the Clinton administration. "I haven't been personally very happy with the way the business has been run over the last three years since I left there," Sieg said. "I think some classic mistakes have been made."

Sieg said the workforce in Japan has been cut from a high of about 4,500 before he left to about 3,000 employees today because of financial difficulties brought on by Ko- dak's acquisition of Sterling Drug and other problems. He particularly lamented the fate of the research facility, which headquarters had ordered sold off despite Kodak's commitments to the city of Yokohama, and the subsequent staff reduction there from 200 to just 70. Some three years later, it still had not been sold. "It's operating on a very small scale, but it suffers [from] image. The ability to hire decent people has probably been destroyed," he said.

Those personnel woes were then compounded by a scandal touched off by Kodak's decision to cancel the employment contracts, known as naitei, of eight university graduates who were scheduled to begin working for the company in the spring of 1993. The students, all engineering majors from two of Japan's most elite institutions--the University of Tokyo and the Tokyo University of Technology--were given just two months notice and no explanation. The action effectively left them without jobs through the next year's annual recruiting cycle and provoked severe criticism not only in the media but from university professors, who play a key role in the recruiting process in Japan. Kodak eventu- ally apologized and paid a compensatory sum of Y2.5 million (about $25,000) to each student, but the damage had already been done.

Speaking of the double-barreled impact of the R&D facility and naitei cancellations, Sieg said, "And that, those kinds of issues, about making commitments in Japan and backing out of them, are the kinds of things that I had alluded to earlier in our conversation about how we were really devastating an image that we had spent a lot of time and money trying to build . . . but probably have made it very difficult for the Kodak company in Japan to hire quali- ty talent for a long time."

Asked about his view of Kodak's decision to pursue the Section 301 petition with the government, Sieg noted that Kodak chairman Fisher "did the fundamental same thing with Motorola" when he was president and later chairman of that company (Fisher had used aggressive trade tactics to obtain a strong position in the Japanese market for electronic pagers and cellular phones). Sieg added, "My strategy, if I were still in a position to influence and then implement it, would have been entirely different. . . . I would have continued what we had been doing when I left there in 1991. I would have continued to invest and I would have continued to build the research lab--UP! I would have continued to explore other avenues of distribution. I would have part- nered with some very strong Japanese company."

Sieg emphasized that one of the major risks associated with the current Kodak strategy is that it will further undercut the company's image in Japan. "In a frontal con- frontation with an entrenched competitor like Fuji Photo Film," he said, "I can't envision what the [American] gov- ernment might do that could help Kodak without generating a lot of ill will on the part of the Japanese consumer." He added, "I can't envision what a government would do short of agreeing to numerical standards, which the Japanese govern- ment has steadfastly refused in the auto case. And after their experience with semiconductors, I don't think they will even ever give anybody their best effort numbers."

By now it should be clear from the various scholarly histories--augmented by Sieg's detailed account of his own experience in Japan--that for practical purposes, Kodak passed up myriad chances to establish an important presence in the Japanese market. Before 1984 the company was content to sell through an exclusive distributor, with zero or only the smallest amount of marketing and technical support, rather than make the necessary investments. Beginning in 1984, under Sieg's leadership, Kodak Japan began to do all the right things, brought itself back from the brink, and became a very profitable enterprise. In 1992 business troubles at home led to global cutbacks that, understand- ably, had their biggest impact in Japan, where Kodak's position was weakest. It is not difficult to reconcile Kodak's failure to expand market share in Japan with cut- backs that amounted to approximately a third of the com- pany's Japanese workforce over the last four or five years.

In its arguments asserting that Kodak was "shut out" of Japan, the Dewey Ballantine report notes that government capital controls on the photographic business were not removed until 1976. While that is basically true (invest- ment in joint ventures was allowed starting in 1971), it is also misleading. In the 1950s and 1960s foreign firms had the option of establishing wholly owned "yen" companies in Japan.[94] Most American firms declined, fearing they would never be able to repatriate their profits. But quite a few others--Coca-Cola, IBM, and Mobil prominent among them--did take the plunge and are among the leading firms in Japan today. After 1964, when the yen was made convertible on international markets, foreign manufacturing investment did require government approval, but enterprising companies again found a way around the barriers, leveraging their control of important technology to gain concessions in the market.

In any event, given the fact that the American photo- graphic giant did essentially nothing to improve its posi- tion in Japan for a good eight years after capital liberal- ization, there is little reason to think the company would have moved had circumstances been somewhat different during an earlier period. Sieg concedes the point: "Like most American companies [in the 1950s and 1960s], we were content to sell technology to the Japanese to make money. And we did. We sold technology to Fuji Photo Film and Konica and anybody that came to our door. That was the way that we decided we could make money in Asia. It was also a judg- ment--obviously not right--that we didn't need to worry about the Japanese as a competitor."

Wholesale Excuses

Another key argument in the Kodak case is that there is a "distribution bottleneck" in Japan because Fuji Photo Film improperly controls four single-brand wholesale distribu- tors, known as the tokuyakuten, to which the American compa ny wants access. That is really quite disingenuous. Exclu- sive dealership networks are the norm in the film industry in Japan, as well as in the United States and Europe. In fact, they are the norm in many highly competitive indus- tries. That is why we do not see a bottle of Coca-Cola on a Pepsi truck, and vice versa. Kodak controls its own distri- bution in America and, as Sieg recounted in the Chronicles passage cited earlier, it also took successful steps to consolidate its own exclusive network in Japan when it bought out its distributor Nagase in the 1980s.[95] That action, in and of itself, constituted a decision not to pursue the tokuyakuten as potential outlets.

Fuji's system of dealerships through independent sin- gle-brand wholesalers was in place in Japan long before Kodak made any serious attempt to increase its market pres- ence. Kodak's system of direct distribution in the United States was in place long before Fuji made any attempt to enter the American market. The only difference is that Fuji's dealers in Japan remain independent, which at least makes them theoretically open to offers from Fuji's competi- tors. For Kodak to argue that the tokuyakuten are now an "essential facility" for Kodak's success would tend to fly in the face of both reason and history.[96] It also raises an interesting proposition: would it have been a legitimate argument for Fuji to have claimed that Kodak's American distribution system was an "essential facility" and to have demanded access to it? To ask the question, of course, is to answer it.

Kodak's "essential facility" argument has been further undercut by a recent series of independent surveys, albeit commissioned by Fuji, that show Kodak has substantially penetrated retail stores, which account for 73 percent of total sales in Japan, and that Kodak products are widely available throughout the country. As far as the tokuyaku- ten's own customers are concerned, the surveys show that 78 percent of them, representing 87.3 percent of the tokuyaku- ten's total sales volume, either carry Kodak products or have an existing Kodak supplier.[97] Given that situation, it is not precisely clear how those wholesale distributors could be considered indispensable to Kodak. It is even more of a mystery why the tokuyakuten would want to carry Kodak film in direct competition with Kodak's own distribution network in Japan.[98]

U.S. Government Bailout?

In assessing the openness of markets, it is important to remember that there are barriers, and then there are "barriers." If, as is clear from events and as Kodak itself asserts, the American photographic company was able "in the space of less than two years"--and without government assis- tance--to turn a near catastrophe into a major presence, then the Japanese market cannot possibly be considered closed.[99] On the other hand, big burly competitors--in any market--do not always behave according to Marquis of Queens- bury rules. And there are frequently many other minor and medium-sized obstacles--both fair and unfair--that can impede the smooth progress of business. Lower level mechanisms exist to adjudicate such complaints. They should not be the stuff of trade wars.

So Kodak has a difficult problem. On the one hand, it is proud of its success in the market and wants to get credit for that. On the other, it has decided to use the U.S. government as a willing accomplice in an effort to improve its position. To qualify for affirmative action, it must paint itself as a victim. The dissonance in those conflicting impulses becomes palpable when we consider that the Kodak Section 301 petition--stripped of its strategic trade rhetoric--is really nothing more nor less than an antitrust action, which is completely out of the USTR's jurisdiction and competence. It's a bit like asking tennis ace Andre Agassi to referee a sumo match. Great athlete, wrong sport.

Because virtually every fact in the case is in dispute, and reasonable people may disagree about the proper interpretation of the evidence, the situation would seem to argue for some mechanism of impartial fact-finding. Theoretically, the USTR is supposed to conduct an objective investiga- tion under Section 301 to determine whether the market barriers that Kodak alleges truly exist. Indeed, in the past the USTR has launched Section 301 cases and then terminated them with negative determinations--that is, it found no market barriers worth pursuing.[100] Under the current regime at the USTR, though, that does not appear to be an option. It seems almost a foregone conclusion that if a case is launched, market barriers will be "found" and some attempt at extracting concessions will be made. For exam- ple, deputy USTR Ira Shapiro announced on December 21, 1995, that there were "substantial barriers" in the Japanese film market and that some negotiated solution was necessary.[101] That was the very same day that Fuji submitted its survey data showing that Kodak is already carried by the vast bulk of Fuji's distributors' customers. Whether or not the USTR and Kodak can successfully refute Fuji's counterargument, it was clearly premature to make such a statement in the absence of a complete investigation.

Accordingly, Fuji's position has been that the case cannot be resolved until some neutral fact-finder becomes involved in the dispute. Specifically, Fuji proposed five alternatives to the USTR: the Organization for Economic Cooperation and Development, the World Trade Organization (WTO), international arbitration, an ad hoc committee of experts, or a U.S. administrative law judge.[102] The USTR explicitly rejected all alternatives but the WTO, insisting the case is "an important bilateral trade matter between the Government of the United States and the Government of Japan--not between Kodak and Fuji."[103] Meanwhile, MITI has steadfastly refused to discuss the situation with the USTR. Since Kodak's argument against Fuji consists basically of antitrust allegations, MITI insists Kodak should have gone to the Japanese antitrust agency, the Japan Fair Trade Commission. In the end, the USTR may have to relent and take the case to the WTO if for no other reason than to get the Japanese government to talk to it. Indeed, American trade officials recently suggested that they might take such a course, timing their decision to coincide with President Clinton's scheduled trip to Japan in April.[104]

What do Kodak and the USTR want if negotiations do ever occur? They may want different things; at this point, the USTR may simply be looking for some way to declare victory and move on. Kodak claims it merely wants unimpeded access to the Japanese market, but in unguarded moments it lets slip that it wants the USTR and MITI to restructure the market on its behalf. Kodak chairman Fisher has said he wants the "entire distribution system [in Japan] dismantled."[105] Another Kodak person close to Fisher was quoted as saying the company will push for a "measurable" settle- ment on Kodak's petition. That person said it must be more than "Fuji saying to the distributors, 'You are free to sell other companies' products,'" a reference to the language in the auto agreement requiring a letter to that effect be sent to all automobile dealers in Japan.[106] More recently, Kodak Japan's top executive, responding to rumors that the USTR might go to the WTO, seemed to be angling for strong help from Uncle Sam. "If Japan can get away with stiffing the U.S. Government, it sends a message to other governments [that they can, too]," the executive told a group in Wash- ington.[107] Chairman Fisher underscored that view at a House hearing on March 28, 1996, warning that Japan is "plainly testing the resolve of the U.S. government" to obtain an agreement.[108]

As Sieg noted in interviews, Kodak's current efforts under Chairman Fisher bear an uncanny resemblance to Fish- er's pressure tactics on behalf of Motorola during several nasty trade confrontations in the 1980s and again in 1993 and 1994 after the Clinton administration took office. In 1986, aided by threats from the USTR and the Department of Commerce, Motorola forced Japan to allow what no other country in the world would ever accept--a competing and totally incompatible cellular phone standard (Motorola's) in one of Japan's two cellular regions. Then, in 1989--this time aided by U.S. government threats to impose 100 percent tariffs on a variety of Japanese products--Motorola forced its way into the other cellular region and even precipitated a kind of "shotgun wedding" with a company called IDO, a Japanese common carrier in the Tokyo area. IDO was given a list of Motorola equipment to purchase and a timetable for installing it. In 1993, with help from USTR Kantor, the list was expanded and the timetable accelerated.[109]

In the current Kodak scenario, it seems likely that the tokuyakuten wholesalers have been targeted for much the same treatment as Motorola's IDO. Kodak seems to be hoping to bring off another shotgun wedding, forcing the companies to carry Kodak film and then setting up ongoing government "monitoring" mechanisms--like the semiconductor and auto agreements--to make sure they sell it. That is neither free trade nor fair trade. In fact, it is not trade at all.

Conclusion

U.S. trade officials and industry lobbyists often have justified Section 301 cases and other actions on the grounds that they are intended to open foreign markets rather than to keep America's closed. Thus the demands for "results-oriented" trade--embodied in what have become known as "voluntary import expansions"--are given a free-trade "fig leaf" to disguise their essentially protectionist na- ture.[110] Clearly, the automotive, semiconductor, and, now, film industries have been trying to gain a competitive advantage that would not be attainable in the absence of U.S. government pressure or threats. Even when specific exclusionary trade practices could not be identified in Japan, "invisible barriers" have been labeled as the culprit to justify the effort to secure specific market share. The process was completely unilateral and therefore inherently even more aggressive than earlier efforts to secure "volun tary" export restraints. As Nobel laureate economist Merton H. Miller put it two years ago, "The administration uses the term 'negotiating' in a very strange way indeed. The only discussable issues are how much they [the Japanese] are to concede and how fast. The quid we are to provide in return for their quo is simply not to bash them--the same 'bargain' one makes with a mugger."[111]

Moreover, these case studies demonstrate clearly that the idea of the USTR as an honest broker between competing American and foreign interests has essentially been tossed to the winds in favor of an approach accommodating those companies with the greatest political clout in Washing- ton.[112] In the process, America has several times threat- ened a trade war without ever educating her citizens about the true circumstances behind an issue. The message to our trading partners--particularly Japan--has been that "rigged markets and managed trade will be tolerated, so long as they are rigged or managed in favor of U.S. sales."[113] Certain- ly, the twisting of history and trade data in support of discredited economic notions has been a prominent feature of most of the cases brought by the USTR at least since the mid-1980s.[114] The result is a hodgepodge of policies that run the gamut from multilateral, bilateral, and regional trade initiatives to government bullying, affirmative action programs, and sentiments like "who needs Japan anyway?--the so-called bypassing-Japan strategy mistakenly pursued by some American businesses mesmerized by the spectacular economic growth of East Asia and now encouraged (at least to some extent) by the U.S. government.[115]

Sadly, the schizophrenia of U.S. trade policy has been increasing despite significant market liberalization by Japan and other leading trading partners over the past 20 years.[116] In fact, it often seems that the better things get for American and other foreign companies in Japan, the more U.S. politicians rail at what they allege to be Tokyo's closed markets.[117]

A case in point is a recent study that analyzed the top 100 foreign manufacturing and marketing firms in Japan.[118] The report concluded that on an equity-adjusted basis in 1994 those foreign companies controlled a total of $155 billion in sales--a figure the authors wryly noted was "on a par with the GDPs of Indonesia or Thailand." More than half of the companies that made the list were American and ac- counted for two-thirds of total sales. A third of the firms were European, and 11 were Asian, led by South Korea with 8 entries. The magnitude of the foreign presence was further underscored by the fact that banks, security firms, and insurance companies were excluded from the study, mostly because of difficulties in obtaining reliable data, as were companies such as Boeing, Weyerhauser, and General Electric Aircraft that export billions of dollars of product directly to Japan without going through a Japan-based subsidiary.

The companies cited in the report are engaged in business across all sectors of the Japanese economy, demonstrating that market entry has not been restricted--as has often been claimed in the past--to just a few areas where domestic companies are either completely dominant or, conversely, not competitive at all. Even relatively new market entrants (within the past 10 years or so) such as Sun Microsystems ($803 million), Intel ($1.04 billion), Microsoft ($490 million), and COMPAQ ($360 million) were well represented on the list. Those four companies, incidentally, are all wholly owned American subsidiaries. They all chose to go it alone rather than to link up with a Japanese partner in a joint venture--the usual route in years gone by when the market was less open and many foreign firms lacked the confidence to forge ahead by themselves.

The trend toward independence is expected to continue, as is American dominance in the computer sector. For example, IBM (no. 1 on the list) had 1994 equity-adjusted sales in Japan of more than $13 billion. The Europeans dominate the automotive sector, again with almost 100 percent owner- ship. BMW chalked up sales of $2.17 billion, followed by Daimler-Benz with $1.78 billion, Volkswagen with just under $1 billion, and Volvo with $683 million. Particularly rapid growth is forecast for "smaller" companies, those with annual sales of $350 million or less, especially foreign software and retail enterprises that will soon be breaking through the threshold level--an astonishing development given their relatively short tenure in the market. The president of one of the smaller companies, a Midwest manufacturer of log and timber homes, recently put the issue in personal terms: "To read the newspapers, one would think there is no way an American business can succeed in Japan without getting the U.S. government to intervene on its behalf. . . . But American businesses can succeed in Japan without turning to the government and increasing trade tensions between the two countries. I know because I've done it."[119]

That portrait hardly squares with the persistent pic- ture painted in Washington of Japan as a notoriously closed, hostile, and difficult market--"Fortress Japan" in the words of the headline writers. But, as we have seen, the disconnect between reality and perception is not a recent phenome non. The point is not to belabor the history but to underscore how well the popular image of a closed Japanese market has withstood the accumulation of very strong evidence to the contrary. Indeed, the mythology may be a necessary fiction promoted by what economist Herbert Stein has called the "knowing" protectionists--the American industry spokes- men and strategists who have immediate domestic interests at stake and who use the image of a predatory Japan to win special favors such as quotas, high tariffs, subsidies, and--more recently--guaranteed shares of a foreign market.[120]

Understanding the dynamics of that political process, however, should not distract our attention from the fact that American and other foreign companies have already clearly demonstrated their ability to succeed in Japan without Uncle Sam's helping hand. Japan, like every other advanced industrial democracy, has its economic, social, and political problems; its trade barriers; and its regulations. There are many policies it could pursue to open its economy further and stimulate recovery from a long recession. But those have nothing to do with granting sector-specific favors to companies with healthy balance sheets and highly competent managers.

Notes

[1] See, for example, Laura D'Andrea Tyson, Who's Bashing Whom? Trade Conflict in High-Technology Industries (Wash ington: Institute for International Economics, 1992). For a critical look at the antecedents to the Clinton administra tion's policy, see Jagdish Bhagwati and Hugh T. Patrick, eds., Aggressive Unilateralism: America's 301 Trade Policy and the World Trading System (Ann Arbor: University of Michigan Press, 1990).

[2] It is hard to find an academic economist from either the left or the right who supports the administration's policies. For example, an open letter to President Clinton and former Japanese prime minister Hosokawa in September 1993 urged Japan to "say no" to the American demands. The letter, organized by Columbia University's Jagdish Bhagwati and Hugh Patrick, was eventually signed by well over 100 economists and experts on Japan, including five Nobel laure ates. For the partial text, see Far Eastern Economic Re view, November 4, 1993, p. 26. For a more recent and de tailed critical analysis, see Paul Krugman, Peddling Pros perity: Economic Sense and Nonsense in the Age of Diminished Expectations (New York, W. W. Norton, 1994).

[3] David E. Sanger, "U.S. Settles Trade Dispute, Averting Billions in Tariffs--Pact Often Vague, New York Times,

June 29, 1995, p. A1.

[4] See, for example, Helene Cooper and Valerie Reitman, "Averting a Trade War," Wall Street Journal, June 29, 1995, p. A1. See also "Number of Parts to Be Bought Is Unclear," New York Times, June 29, 1995, p. D6.

[5] Quoted in Bob Davis, "U.S. Launches Trade Offensive against Japan," Wall Street Journal, May 11, 1995, p. A2.

[6] Mark Mason, American Multinationals in Japan (Cam- bridge, Mass: Harvard University Press, 1992), p. 147.

[7] Ibid., p. 333.

[8] Eiji Toyoda, Toyota: Fifty Years in Motion (Tokyo: Kodansha International, 1985), p. 130.

[9] Ibid.

[10] Quoted in Michael Berger, "Detroit's Deception: What U.S. Carmakers Don't Tell You," Japan Scope, Spring 1995, p. 49.

[11] On lost opportunities and for additional candid indus try views, see James Bennet, "Big 3 and Japan: U.S. Talks of Closed Markets for Cars, But Detroit Concedes It Wasn't Trying," New York Times, March 27, 1995.

[12] James C. Abegglen, Sea Change (New York: Free Press, 1994), p. 33.

[13] See "Car Makers Stampeding for Southeast Asia," Asahi Evening News, November 3, 1995; Grant Pecks, "Big Three U.S. Automakers Finding Themselves Way Behind in Thailand," Japan Times, November 7, 1995; "Toyota to Provide Know-how to Chi nese Carmaker Tianjin," Nikkei Weekly, November 6, 1995; Ron Corberg, "US Officials Back GM Production Bid in Push for Thailand Tariff Reductions," Journal of Commerce, November 7, 1995; "Automakers Design 'Asia cars' to Maximize Cost Effectiveness," Nikkei Weekly, November 13, 1995.

[14] Quoted in James Bennet, "Chrysler Chief's World View: Place to Sell, Not Build, Cars," New York Times, September 30, 1994.

15) Valerie Reitman, "Access Isn't the Only Gripe, and for Chrysler, GM, It Isn't High on the List," Wall Street Jour nal, February 2, 1995.

[16] Anne O. Krueger, American Trade Policy: A Tragedy in the Making (Washington: AEI Press, 1995), p. 59.

[17] Ibid., p. 54. See also Robert W. Crandall, "Should Automobile Import Quotas Have Been Extended?" Cato Policy Report 7, no. 2 (March 1, 1985).

[18] "Japan Imports Surge: U.S. Makers at Rear," Ward's Automotive International, February 1996.

[19] Naoki Yamaguchi, president of Nagoya-based Aichi Toyota Motor Co., an independent dealership, elaborated on the demands of American automakers and their lack of financial support in a speech to the Foreign Correspondents Club of Japan on June 20, 1995. "If the question were one of sell ing American cars alongside Japanese cars in their existing outlets, dealers might be more enthusiastic. But the Ameri can automakers have resisted that option," Yamaguchi said. "Ford Japan talked to us about setting up sales outlets to sell their cars. But the terms on offer simply weren't attractive enough for us to take them up on their offer. So let me set one thing straight: if Japanese dealers refrain from handling foreign cars, it's not because of concerns about relations with the Japanese automakers. It's because the products and terms on offer simply don't make compelling business sense." Text of speech available from Aichi Toyota Motors Co.

On GM, see Richard L. Zarella, General Motors executive vice president, memorandum to all GM dealers in the United States, October 5, 1995.

[20] Of the 46 percent figure, which represents an increase of about 30,000 vehicles, only 13,000 came from North

Ameri ca, and some of that number were manufactured in Mexico and Canada. The remaining 17,000 came from the Big Three's integrated European operations, and many of them were from GM's Opel division, which GM bought some years ago after the Opel was already popular in Japan. Interestingly, when the AAMA reports Big Three sales in Japan for the purposes of trade negotiations, it does not count Opel sales, treating them as "European" vehicles so as to make the "American" share of the market appear smaller. "Chrysler, Ford and GM 1995 Sales Up 46%," AAMA Japan Report, January 1996, p. 1.

[21] "Japan Imports Surge."

[22] U.S. Motor Vehicle Trade, February 1995.

[23] U.S. Auto Parts Advisory Committee, "Methodologies for Calculation of Burden and Restriction on United States Commerce of Unfair Trade Practices in the Japanese Auto Parts Aftermarket," Draft report to the USTR and U.S. De partment of Commerce, May 24, 1995. The actual calculation was made by attorney Gilbert B. Kaplan, a former deputy assistant secretary of commerce and a veteran of the semi conductor disputes in 1986 and 1991 when similar arithmeti cal leaps of faith were used to support anti-dumping penal ties against Japan.

[24] Berger, pp. 48, 52.

[25] William R. Cline, "Car Crash: Clinton Ignores Trade Facts," Wall Street Journal, May 15, 1995, p. A22.

[26] U.S. Department of Commerce and Japanese Ministry of International Trade and Industry, "U.S.-Japan Joint Retail Price Surveys, 1989 and 1991," cited in Cline. The studies used average retail prices of department stores, discount stores, and specialty shops in New York and Chicago and compared them with those of similar stores in Tokyo and Osaka.

[27] Andersen Consulting Co., 1994, mentioned in Berger.

[28] The results of this price comparison do not contradict the IIE study cited above by Cline, which looked at prices for all foreign-made autos in Japan, not just American.

[29] Masato Ishicawa, "Big Three Roll Down Prices, Rev Up Sales," Nikkei Weekly, March 47, 1996, p. 1. See also Motor Magazine, May 1995.

[30] Various confidential industry sources; see also Alan L. Adlers, "GM, Toyota Tout Cavalier to Skeptical Japanese Buyers," Detroit Free Press, October 24, 1995.

[31] "Sales of GM Cavalier Outdo Expectations," Mainichi Shimbun, February 8, 1996; James B. Treece, "Toyota Cavalier Gets Extended Launch," Automotive News, December 18, 1995.

[32] Satoshi Isakas, "Detroit Autos Debut to Hype, High Hopes and Mixed Reviews at Tokyo Motor Show," Nikkei Weekly, November 13, 1995.

[33] James B. Treece, "Saturn Short on Specifics for Japa nese Sales Launch," Automotive News, October 16, 1995. See also Mutsuo Toga, "GM to Launch Saturn in Japan," Nikkei Weekly, March 4, 1996. GM's promised right-hand-drive Cadillac is another no-show; see "GM to Export Right-Hand Caddy," Washington Times, October 19, 1995.

[34] James Bennet, "Japan Keeps Pace in U.S. Car Market: Detroit Market Share Drops Despite Strong '94 Sales," New York Times, January 6, 1995, p. A1.

[35] "Japan Imports Surge."

[36] John Maggs, "Big Three's Europe Plants Drive Sales Gains in Japan," Journal of Commerce, January 19, 1996.

[37] Chrysler chairman Robert J. Eaton, commenting on the Japanese business plans the day of the announcement, said, "That was stuff that was going to happen anyway. As far as I'm concerned, nothing changed there at all. Zero."

Quoted in James Bennet, "Hearty Cheers in Detroit As Japan Renews Earlier Goals," New York Times, May 29, 1995, p. D6.

[38] "Joint Announcement by Ryotaro Hashimoto, Minister of International Trade and Industry of Japan, and Michael Kantor, United States Trade Representative, Regarding Autos and Auto Parts," Geneva, June 28, 1995, p. 2.

[39] Ibid., pp. 3, 7.

[40] Bob Davis, "U.S. Expects Goals in Pact with Japan to Be Met Even without Overt Backing," Wall Street Journal, June 30, 1995, p. A1.

[41] See, for example, Japanese Ministry of International Trade and Industry and Ministry of Transportation, "Outline of Final Conclusion between the Government of Japan and the Government of the United States Regarding Autos and Auto Parts," August 1995; Japan Automobile Manufacturers Associa tion, letter to the USTR, December 11, 1995; Toyota Motor Sales, U.S.A., letter to the USTR, August 28, 1995.

[42] For last year's figures, see Japan Automobile Importers Association forecast, as reported in Ward's Automotive International, February 1996.

[43] Letter from C. Douglas Smith, Toyota vice president for government affairs, to Andrew H. Card, president of the American Automobile Manufacturers Association, January 22, 1996.

[44] Ishicawa.

[45] Tyson concedes that "the conventional wisdom among economists is that the SCTA [the agreement] was an unmiti gated failure" (p. 132) but then goes on to argue that the pact was really "a qualified success"--what she calls a "second best policy alternative," the first best being completely free trade. The key problem with this argument is its unilateral and circular nature. Only the U.S. gov ernment and American companies get to vote on what consti tutes an "unfair barrier." Similarly, if the U.S. side gets what it wants, that seems to be sufficient evidence to justify its initial demands. An acknowledged "supporter" of the American semiconductor industry argument against Japan (p. 134), Tyson puts it this way: "Once again the lesson that emerges is the extent to which U.S. pressure--backed by a credible commitment to sanctions--is necessary when a bilateral trade agreement threatens the interests of power ful Japanese companies" (p. 136).

[46] Mark Selsenthal, "Clinton Supports Renewing Semiconduc tor Deal with Japan," Bureau of National Affairs Daily Report for Executives, February 8, 1996, p. A-27; see also Alison Mitchell, "Clinton Meets Japan Premier As Trade Fires '96 Campaign," New York Times, February 25, 1996; "Semicon ductor Industry to Push for Extension of U.S.-Japan Pact," Inside U.S. Trade, March 24, 1995, p. 6; "U.S., Japan Could Clash on Renewal of Semiconductor Agreement," Inside U.S. Trade, September 22, 1995, p. 1; "U.S. Would Accept New Japan Chip Deal without New Numerical Target," Inside U.S. Trade, December 8, 1995, pp. 9-10.

[47] "Semiconductor Industry to Push for Extension of U.S.- Japan Pact," pp. 6-7.

[48] Quoted in "Japan Will Not Renew, Extend Semiconductor Agreement, Official Says," Bureau of National Affairs Daily Report for Executives, January 24, 1996.

[49] In-Stat Electronics Report, November-December 1995, p. 4.

[50] Interview with In-Stat analyst, April 2, 1996.

[51] Dataquest, San Jose, California, January 1996.

[52] Micron Technologies and Texas Instruments are the only remaining DRAM manufacturers in the United States, although several American companies have reentered the DRAM business very profitably through their factories in Japan, East Asia, and Europe. Texas Instruments is expecting to bring a new plant on-line later this year in a joint

venture in Texas with the Japanese firm Hitachi.

[53] Dataquest, January 1996, preliminary market share esti mates.

[54] USTR press release, March 19, 1996, as quoted in "Japan's Chip Market," New York Times, March 20, 1996, p. D3.

[55] Dataquest, December 1995; Electronic Industry Associa tion of Japan for the 1986 figure.

[56] Ibid.

[57] Ibid.

[58] Douglas A. Irwin, Managed Trade: The Case against Import Targets (Washington: AEI Press, 1994) p. 25. Japa nese companies do have a dominant share of the U.S. market for such items as fax machines, televisions, and VCRs, but American companies are not in those businesses.

[59] Dataquest, as cited in "Intel Leads Again, but DRAM Vendors Also See Stronger Performances," Electronic Buyer's News, January 15, 1996.

[60] "U.S. Would Accept New Japan Chip Deal without New Numerical Target," pp. 9-10.

[61] For a detailed discussion of both the 1986 and 1991 agreements, see Douglas A. Irwin, "Trade Politics and the Semiconductor Industry," Paper prepared for the National Bureau of Economic Research conference on the political economy of trade protection, February 3-4, 1994; see also Andrew Dick, Industrial Policy and Semiconductors: Missing the Target (Washington: AEI Press, 1995).

[62] Irwin relates that Anne Brunsdale, one of two dissent ing International Trade Commission commissioners on subse quent dumping cases, noted that Japan's share of the DRAM market was 13.5 percent in 1985, 23.6 percent in 1984, and 29.3 percent in 1983. She also pointed out that Japanese and U.S. profits on DRAMs averaged 18 percent in 1983 and 1984. Irwin, Managed Trade, p. 48.

[63] Ibid., p. 39.

[64] Quoted in ibid., p. 42.

[65] Dick, p. 40.

[66] Tyson, p. 129.

[67] Irwin, Managed Trade, pp. 26, 42.

[68] Cited in ibid., p. 53.

[69] On chip prices, see Tyson, p. 113.

[70] Irwin, Managed Trade, p. 55.

[71] The Reagan administration removed $135 million in third-country dumping penalties by November 1987, but the remaining $165 million in tariffs (imposed because of a lack of market share in Japan) was retained until the 1991 agree ment was signed. See Irwin, Managed Trade, p. 54.

[72] How much more is a matter of debate. One estimate, in Eugene Volokh, "The Semiconductor Industry & Foreign Compe tition," Cato Institute Policy Analysis no. 99, January 28, 1988, p. 23, put the cost to American consumers at $500 million to $600 million a year. Another estimate by Huf bauer and Elliott in 1994 (cited in Irwin, Managed Trade, p. 55) pegged the "reduced consumer surplus" at $1.2 bil lion.

[73] Kenneth Flamm (1991), cited in Tyson, p. 116.

[74] For the full text of the side letter, see Irwin, Managed Trade, pp. 63-64.

[75] Martha Groves, "Kantor Calls for Emergency Talks with Japanese Commerce," Los Angeles Times, December 28, 1993, p. 1.

[76] Selsenthal.

[77] Irwin, Managed Trade, pp. 21-25.

[78] Ibid., p. 26.

[79] Electronics Industry Association of Japan, "Mission Accomplished: Why There Is No Need for a Semiconductor Arrangement with Japan," January 1996.

[80] Ibid.

[81] Nomura Research Institute, quoted in Electronics Indus try Association of Japan.

[82] "Tokyo's Trade Hypocrisy," editorial, New York Times, June 21, 1995, p. 18.

[83] Wendy Bounds, "Fuji, Accused by Kodak of Hogging the Market, Spits Back 'You Too,'" Wall Street Journal, July 31, 1995, p. A1.

[84] Letter from MITI vice minister Yoshihiro Sakamoto to Ambassador Ira S. Shapiro, deputy USTR, January 5, 1996, in Inside U.S. Trade, January 12, 1996, pp. 22-23.

[85] James C. Abegglen and George Stalk Jr., Kaisha: The Japanese Corporation (New York: Basic Books, 1985), p. 240.

[86] Robert C. Christopher, Second to None: American Compa nies in Japan (New York: Fawcett Columbine, 1986), espe cially pp. 23-34.

[87] Mark Mason, American Multinationals in Japan (Cam bridge, Mass.: Harvard University Press, 1992), p. 196.

[88] Taking on Japan: How 18 Foreign Companies Compete in the World's Second Largest Market (Tokyo: Look Japan, 1988), p. 38.

[89] Ibid., p. 36.

[90] Various sources, off-the-record conversations, and written exchanges over the years.

[91] Albert L. Sieg, The Tokyo Chronicles: An American Gaijin Reveals the Hidden Truths of Japanese Life and Busi ness (Essex Junction: Oliver Wight, John Wiley & Sons, 1995), p. xviii.

[92] Quoted in Christopher, p. 23.

[93] See Scott Latham, "Kodak's Self-Inflicted Wound," Wall Street Journal, August 14, 1995, p. A10; see also Sieg's letter to the editor, "In Japan, Kodak Faced Real Barriers," Wall Street Journal, September 13, 1995, p. A13, and Latham's reply, "Kodak's Story Proves Japan Market Is Open," Wall Street Journal, September 21, 1995, p. A23. There is an apparent gross contradiction between Sieg's amended statement and his view in the previously cited 1988 Look Japan colloquy in which he said, "We really aren't saddled with any barriers." That can be resolved--at least to some extent--in Sieg's favor. Speaking in Tokyo while still president of Kodak Japan, Sieg may have felt it would have been both counterproductive and inappropriate to make a big issue of market barriers unless they were truly serious.

[94] In "Privatizing Protection: Japanese Market Barriers in Consumer Photographic Paper," May 1995, Kodak's counsel, Dewey Ballantine, states that Kodak had a "prewar 'grand father' corporate charter that enabled it to maintain a subsidiary in Japan notwithstanding the postwar prohibition on foreign direct investment" (p. 68). While the documenta tion offered on that point is somewhat vague, the grandfa ther clause might even have functioned to give Kodak more flexibility in the market than the "yen company" route that they disdained.

[95] For a more detailed account of Kodak's consolidation of its distribution network in Japan, see Sieg, The Tokyo Chronicles, pp. 101-8.

[96] "Privatizing Protection," p. 151.

[97] Independent surveys by tokuyakuten, NTT Telemarketing, and Nippon Research, December 21, 1995, distributed by Fuji's attorneys, Willkie, Farr and Gallagher, Washington, D.C.

[98] Kodak recently issued its own survey showing that Kodak products are much less available in Japan than Fuji's stud ies indicate. However, Kodak does not rebut Fuji's findings that the vast majority of the tokuyakuten's customers carry Kodak. Assuming for the moment that the Kodak study accu rately reflects the company's distribution difficulties in Japan, the survey does not establish a connection between those problems and specific behavior by Fuji or its distrib utors. The Kodak survey also fails to take into account relative sales volumes within a given outlet type, a fact that would tend to understate Kodak's actual market pres ence. See ODS, Inc., "Japan Market Access Survey for Photo graphic Film," submitted to the USTR, March 20, 1996, by Dewey Ballantine.

[99] Albert L. Sieg, "In Japan, Kodak Faced Real Barriers," letter to the editor, Wall Street Journal, September 13, 1995, p. A13.

[100] J. Michael Finger and K. C. Fung of the World Bank cite 12 petitions that were dismissed between July 1975 and December 1992 as not justifying any action. Finger and Fung "Can Competition Policy Control 301?" in Aussenwirtschaft (Zurich: Verlag Regger, 1994), pp. 404-5.

[101] USTR Press Release, December 21, 1996.

[102] Letter from Fuji Photo Film attorney Thomas J. Downey to Ambassador Mickey Kantor, November 15, 1995.

[103] Letter from Irving Williamson, USTR acting general counsel, to Thomas J. Downey, December 10, 1995.

[104] Helene Cooper and Wendy Bounds, "U.S., Unable to Budge Japan, May Take Kodak-Fuji Film Dispute to the WTO," Wall Street Journal, February 22, 1996, p. A10.

[105] Wendy Bounds and Bob Davis, "U.S. to Launch New Case against Japan over Kodak," Wall Street Journal, June 30, 1995, p. A3.

[106] Quote from ibid.

[107] Quoted in Richard Lawrence, "US-Japan Photo Pact May Develop by Summer," Journal of Commerce, February 22, 1996, p. A3.

[108] Quoted in "Kodak Chief Warns Japan Is Testing U.S.'s Trade Stance," Wall Street Journal, March 29, 1996, p. A4.

[109] Scott Latham, "Poor, Poor Motorola," Wall Street Jour nal, March 3, 1994. See also Hobart Rowen, "Trade Warrior Clinton: Making the World Safe for Motorola," Washington Post, March 17, 1994; and "Trade Threats from Uncle Sam," The Economist, March 19, 1994.

[110] See Irwin, Managed Trade, for a complete analysis of the discriminatory, coercive, and arbitrary nature of VIEs.

[111] Merton H. Miller, "Japanese-American Trade Relations: Rambo Takes on Godzilla," Public lecture at the University of California, Santa Barbara, April 21, 1994.

[112] For a discussion of the historical role of the USTR as a "broker," see I. M. Destler, American Trade Politics (Washington: Institute for International Economics, 1995), chap. 5.

[113] Finger and Fung, p. 400.

[114] Practically all academic economists, both liberals and conservatives, dismiss the simplistic idea that trade defi cits (imports) are ipso facto "bad" and surpluses (exports) "good." Yet that belief--along with its corollary, that trade deficits kill off American jobs--continues to drive U.S. economic policy and adds a highly emotional element to relations with our trading partners.

[115] See, for example, Andrew Pollack and David E. Sanger, "U.S. Is Shifting Trade Emphasis Away from Japan--Companies Are Driving the Policy, More Growth Predicted for New Mar kets," New York Times, November 4, 1994, p. D2.

[116] For a more complete discussion of the contradictions of U.S. trade policy, see Krueger.

[117] In this context, the policies advocated by Patrick J. Buchanan in the Republican presidential primary campaign should not be seen as a new phenomenon but as a logical outgrowth (albeit a more extreme version) of a long-term protectionist trend in the United States.

[118] See Peter S. Kirby and James C. Abegglen, Gemini Con sulting (Japan) Newsletter, November 1995. The survey looked at companies in which the foreign parent held at least 20 percent equity (reflecting some degree of manage ment control) and adjusted gross sales to reflect the owner ship position. See also James C. Abegglen and Peter S. Kirby, "Holding the Right Cards in Japan," Asian Wall Street Journal, March 4, 1996.

[119] Stephen R. Biggs, president of Town and Country Cedar Homes, Petoskey, Michigan, "Selling in Japan without Govern ment," Detroit News, March 13, 1996.

[120] Herbert Stein, "Don't Worry about the Trade Deficit," Wall Street Journal, May 16, 1989.