U.S.-JAPAN TRADE POLICY AND FDI ISSUES

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CONFERENCE

ISSUES AND OPTIONS FOR THE MULTILATERAL, REGIONAL, AND BILATERAL TRADE POLICIES OF THE UNITED STATES AND JAPAN

Executive Residence, Room 0750 (Lower Level)
School of Business Administration
710 East University Avenue
Ann Arbor, Michigan

Thursday and Friday, October 5-6, 2000

Discussants: Yoko Sazanami, Meikai University
John Ries, University of British Columbia

9:00 A.M.
Friday, October 6, 2000

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I. Introduction

The purpose of this paper is to review the salient issues of U.S.-Japan trade policies and foreign direct investment (FDI). It covers these issues from a multilateral, bilateral, and regional perspective. To provide some background, I begin in Section II with a description of the recent patterns of trade and FDI of the United States and Japan. Section III considers U.S.-Japan multilateral trade relations and policy initiatives, with emphasis on the dispute settlement actions that each of the nations has taken vis-à-vis the other. Section IV discusses from a U.S. perspective its bilateral trade relations and policy initiatives with Japan, and Section V does the same from a Japanese perspective. Section VI covers the various regional trade policy initiatives in which the two nations are engaged or are actively considering. Section VII concludes.

II. Recent Patterns of Trade and Foreign Direct Investment of the United States and Japan

Before considering the policies of the United States and Japan, it is useful as background to provide an overview of the recent patterns of their trade and FDI.

Patterns of U.S. and Japanese External Trade

Information on the commodity composition of U.S. merchandise trade is given in nominal terms in table 1 for 1998. It is evident that there are both sizable exports and imports in the merchandise trade categories listed. Most of the categories show net imports, with the exception of food, chemicals, power and other nonelectric machinery, and other transport equipment. The overall trade deficit in 1998 was $263.92 billion, with the largest net imports in fuels, non-ferrous metals, office and telecommunications equipment, automotive products, clothing, and other consumer goods. Manufactures accounted in 1998

for more than 80 percent of U.S. exports and imports. Table 2 indicates U.S. merchandise trade by major trading partner and product in 1998. Scrutiny of the details shows some noteworthy variations by commodity group and regions in which the United States has net exports or net imports and the particular categories that contribute most to the U.S. trade deficit. Thus, for example, with respect to Japan, the United States has net exports of agricultural products and net imports of manufactures, especially machinery and transport equipment. The United States has sizable net imports of machinery and transport equipment and especially textiles, clothing, and other consumer goods from China and Taiwan. For the Rest of World, there are sizable U.S. net imports of mining products (particularly petroleum) and textiles, clothing, and other consumer goods and U.S. net exports of machinery and transport equipment.

Information on the commodity composition of Japan's merchandise trade in 1998 is shown in table 3. Manufactures accounted for 94.2 percent of Japan's exports and 56.6 percent of imports. Japan's revealed comparative disadvantage in agricultural and mining products is thus evident from the sizable net imports indicated. Its revealed comparative advantage in the net exports of manufactures is also evident, especially for machinery and transport equipment. Clothing is the only category of manufactures in the table that shows net imports.[1] The geographic distribution of Japan's merchandise trade is shown in table 4. Japan has net imports of agricultural and mining products from the United States and the other regions shown. Japan is a net exporter of semi-manufactures to the United States, East Asia, and Rest of World and a net importer from the EU-15. Japan's sizable net exports of machinery and transport equipment are evident to all of the countries/regions shown. Japan's trade in textiles, clothing, and other consumer goods is nearly balanced except for the sizable net imports from East Asia.

The nominal values of U.S. and Japanese exports and imports of commercial services for 1998 are indicated in Table 5. It is noteworthy that the United States had net services exports of $74.2 billion, with the largest amounts indicated for travel (i.e., tourism), financial services, royalties and license fees, and other business services. Transportation and travel accounted for 53.8 percent of total exports and

[1] More disaggregated data would also show net imports of such manufactured goods as pharmaceuticals, aircraft, and precision instruments.

65.2 percent of total imports, with other commercial services accounting for the remainder. Japan had net services imports of $48.9 billion in 1998. The largest net services imports were recorded for travel (i.e., tourism) and other business services. Data on the geographic breakdown by type of service and major trading partner are not readily available for services.

Patterns of U.S. and Japanese Foreign Direct Investment (FDI)

Data on the sectoral distribution of the stock of U.S. inward and outward FDI are reported in Table 6 for 1987, 1992, 1997, and 1998. As indicated in the last row of the table, the U.S. stock of outward FDI was $980.6 billion in 1998 as compared to $314.3 billion in 1987. The U.S. stock of inward FDI was $811.8 billion in 1998 as compared to $263.4 billion in 1987. Manufacturing accounted for 41.7 percent of inward FDI and 31.1 percent of outward FDI in 1998. The share of services was more than half of inward and outward FDI in 1998 as compared to 47.4 percent and 37.4 percent, respectively, in 1987. This increased importance of services-related FDI is indicative of the fact that many services require a domestic presence in host countries. The geographic distribution of U.S. inward and outward FDI is reported in Table 7. More than 90 percent of inward FDI comes from OECD countries, whereas the OECD countries accounted for 71.3 percent of the outward stock in 1998. Outward FDI in Latin America/Caribbean and in the Asian countries accounted for the bulk of the remainder.

As noted in OECD (1999, p. 417), data on FDI for Japan come either from Japan's balance-of-payments statistics or are compiled on the basis of notifications collected by the Ministry of Finance (MOF). Stock data on Japan's FDI have been taken from balance-of-payments statistics since 1996. Before 1996, the stock data had been compiled by the MOF by accumulating flow data based on notifications. There is a break accordingly in the data reported by the OECD, so that inward and outward FDI stock data prior to 1996 are not comparable with the post-1996 stock data based on the balance-of-payments statistics.

The sectoral distribution of the stock of Japan's inward and outward FDI, based on notifications data, is reported in Table 8 for 1986, 1990, and 1994. As shown in the last row of the table, the absolute

amount of Japan's inward FDI of $34.1 billion in 1994 is very small compared to its outward FDI of $463.6 billion. In 1994, 55.2 percent of inward FDI was in manufacturing, including 30.3 per cent in metal and mechanical products. The other 44.8 percent was in services, with 20.2 percent in trade & repairs and 7.1 percent in financial activities. The data on Japan's outward FDI indicate that about two-thirds of the stock was in services in 1994 as compared to 55.4 percent in 1988. The sectoral data based on balance-of-payments statistics are not yet available for 1996-97.

The large difference in Japan's inward and outward FDI has been remarked upon in the GATT/WTO trade policy review of Japan (1995, p. 35):

> "The authorities ascribe the relatively low levels of FDI into Japan largely to high production costs, land prices, and acquisition costs; these factors have been exacerbated by yen appreciation and domestic competition, which together have resulted in generally low profitability for foreign affiliates and thus tending to discourage possible new entrants….To these factors should be added, when considering the fairly low stock of FDI in Japan, past restrictions on FDI and the fact that, with domestic savings in excess of investment, the Government had not encouraged inward FDI, except in areas where specific technology was thought necessary, e.g., chemicals."

Notwithstanding the foregoing remark, there is reason to believe that the data reported in Table 8 are misleading. As noted in Fukao and Ito (2000), the MOF data cover only cross-border capital flows and therefore do not correspond to the full extent of the actual activities of foreign affiliates in Japan and do not take into account the fact that branches of foreign firms have been set up in Japan to circumvent Japanese regulations. There is also evidence in more recent MOF data of a significant increase in inward FDI in recent years. Thus, in nominal terms on a notifications basis, there was more than a 5-fold increase in inward FDI between the 1994 and 1999 fiscal years in comparison to a 74 percent increase in outward FDI.[2] It appears therefore that the large differences in Japan's inward and outward FDI have been narrowing considerably.

[2] The Ministry of Finance data on foreign direct investment can be accessed at: http://www.mof.go.jp.english/e1008.htm.

The geographic distribution of Japan's stock of FDI is reported in Table 9. Most of the inward FDI comes from OECD countries, 80.5 percent in 1997. The OECD countries accounted for 48.9 percent of Japan's outward FDI in 1997 and the Asian countries, 25.2 percent.

III. U.S.-Japan Multilateral Trade Relations and Policy Initiatives

The World Trade Organization (WTO) came officially into existence in January 1995 and since then has become the center of focus for multilateral trade-policy activities for the member countries. There have been three WTO Ministerial Conference meetings in the intervening years, the most recent of these being the failed Seattle meeting held in early December 1999. In preparing for the Seattle meeting, there were some apparent differences between the United States and Japan concerning the establishment of the agenda for a new WTO negotiating round. The United States favored a somewhat narrow agenda that would be concentrated especially on issues of the built-in agenda that had been mandated in the Uruguay Round agreements concluded in 1993-94. This built-in agenda called for negotiations for the liberalization of agriculture and services to begin in the year 2000 together with actions needed to clarify and improve the implementation of a number of the Uruguay Round agreements. Japan, on the other hand, favored a broader agenda that would encompass such issues as competition policy and investment and the reopening of certain of the Uruguay Round agreements, antidumping in particular. It was also evident in the WTO discussions prior to the Seattle Meeting that the United States was pushing hard in collaboration with the Cairns Group to address issues of agricultural liberalization in a meaningful way. Japan and a number of other WTO members, especially the European Union (EU), were reluctant to make a commitment on agricultural liberalization at the time. Also, Japan had expressed concern about U.S. antidumping actions since it had been targeted so often, but for mainly domestic political reasons the United States was adamant in opposing reopening the antidumping agreement. In any event, despite the failure of the Seattle meeting, the year 2000 negotiations have begun on agricultural and services liberalization and review of the implementation of the Uruguay Round agreements. Progress on the

agenda for a broader WTO negotiating round will evidently have to wait until after the November 2000 U.S. presidential election.

Notwithstanding the failure of the Seattle Ministerial Conference, it is important to note that there has been considerable activity in the past five years especially regarding consultation requests brought to the WTO Dispute Settlement Mechanism. It is useful accordingly to look at these actions more closely from the perspective of the United States and Japan.

Dispute Settlement Actions

One of the most important features of the WTO was the redesign and strengthening of the Dispute Settlement Mechanism. Compared to the previous dispute settlement procedures in the GATT, it is now no longer possible to block establishment of a panel or for a party to block panel reports. Opportunities for arbitration have been increased, time limits applied for completion of panel investigations, standard terms of reference specified, and improvements made in surveillance of the implementation of the panel reports. Because WTO member countries have agreed, when possible, to use multilateral remedies in trade disputes, the scope for resort to unilateral trade measures may be reduced. Further, because the WTO has broader coverage than the GATT, more disputes may be referred to the WTO Dispute Settlement Body (DSB).

Hoekman and Kostecki (1995, pp. 49, 179-80) note that 132 complaints were lodged in the GATT dispute settlement procedure between 1948 and 1994. In contrast, according to WTO (2000), from 1 January 1995 to 22 June 2000, there have been 202 consultation requests made for dispute settlement on 159 "distinct matters." The consultation requests are broken down by complainant and respondents in table 10.[3] It is evident that the United States has brought 65 complaints in total, including 5 against Japan, 25 against the European Communities (EC) and individual EC member countries, 6 against other industrialized countries, and 29 against developing/emerging economies. Japan has brought 7 complaints in total, including 4 against the United States.

As detailed in WTO (2000), the U.S. complaints brought against Japan involve:

- **Taxes on Alcoholic Beverages (DS 11)** – The United States – joined by the European Union and Canada – successfully challenged a discriminatory Japanese tax arrangement that placed high taxes on whisky, vodka, and other Western-style spirits, while applying low taxes to a traditional Japanese spirit (shochu). The Appellate Body Report and Panel Report were adopted on December 24, 1996. Under a December 1997 agreement, Japan agreed to eliminate tariffs on white spirits and to accelerate elimination of tariffs on brown spirits.

- **Measures Concerning Sound Recordings (DS 28)** – This complaint was brought under the TRIPS Agreement. The United States contended that Japan's copyright regime violated the TRIPS Agreement. A mutually satisfactory solution to this dispute was reached on January 24, 1997, such that Japan will provide full copyright protection for sound recordings.

- **Measures Affecting Consumer Photographic Film and Paper (DS 44)** – This began as a Section 301 action on behalf of Eastman Kodak against the Fuji Photo Film company. A dispute panel was established on October 16, 1996. It was announced on December 5, 1997 that all 21 points in the U.S. filing had been dismissed on the grounds that the alleged Japanese Government barriers had no perceptible impact on the competition between imports and domestic products. No further action has been taken. The United States is monitoring the situation in the Japanese market.

- **Measures Affecting Distribution Services (DS 45) –** This action on June 13, 1996 was brought in parallel with Kodak-Fuji action and challenges Japan's Large-Scale Retail Stores Law. Further consultations were requested on September 20, 1996 to address additional legal claims and Japanese measures. Japan announced that it would abolish the Large Scale Retail Stores Law in December 1997.

- **Measures Affecting Agricultural Products (DS 76) –** Japan agreed to eliminate variety-by-variety testing for quarantine purposes and lifted various restrictions on the imports of certain varieties of fruit, including apples and cherries. The Appellate Body Report and the Panel Report were adopted on March 19, 1999.

Japan's complaints brought against the United States involve:[4]

- **Imposition of Import Duties on Automobiles from Japan under Sections 301 and 302 of the Trade Act of 1974 (DS 6)** – Japan alleged that these surcharges were in violation of the GATT. The dispute was settled on July 19, 1995.

- **Measure Affecting Government Procurement (DS 95)** – Japan contends that an Act enacted by the State of Massachusetts prohibiting the public procurement from persons doing business with Burma is in violation of the Government Procurement Agreement. A panel was requested (jointly with the European Union) on September 8, 1998, but its authority lapsed as of February 11, 2000. This case came before the U.S. Supreme Court on March 22,

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[3] It should be noted that the total number of complaints (218) in Table 10 reflects individual cases involving more than one country requesting consultation with the respondent.

[4] As noted in Davey (2000), Japan has been frequently involved as a party and third party in WTO dispute settlement proceedings. These cases have involved in particular the automotive sector, antidumping measures, intellectual property, and U.S. Section 301 actions.

2000. It was decided on June 19, 2000 that the Massachusetts Act was preempted by federal action on economic sanctions towards Burma taken by the U.S. Congress, and that it interfered with the President's authority granted by Congress to speak for the United States in developing a comprehensive and multilateral Burma strategy.

- **Anti-Dumping Act of 1916 (DS 162)** – Japan has challenged the U.S. 1916 Act and the decisions made under this Act as violating the GATT and the Antidumping Agreement. A panel was established on July 26, 1999.

- **Anti-Dumping Measures on Certain Hot-Rolled Steel Products (DS 184)** – Japan contends that the preliminary and final determinations of the U.S. Department of Commerce and International Trade Commission in their antidumping investigations were erroneous and based under deficient procedures and are in violation of the GATT and the Antidumping Agreement. Japan requested a panel on February 24, 2000.

It is evident from the foregoing that the United States is the single largest user of the Dispute Settlement Mechanism. While Japan has requested more consultations than under the GATT prior to 1995, its post-1995 requests appear small by comparison to the United States and European Union. Since there is no question about Japan's firm commitment to the principles and rules of the WTO, this difference may reflect a conscious decision by the Japanese authorities to pursue dispute settlement especially in cases in which its major export interests are in jeopardy (e.g., automobiles and steel) and to resist in cases in which its domestic firms are charged with ostensible restrictive behavior (e.g., photographic film and paper). This is in contrast to the more aggressive, unilateral actions that are typical of U.S. trade policies and that will be discussed in the next section.

IV. U.S. Bilateral Trade Relations and Policy Initiatives with Japan

The United States has for some time aggressively pursued bilateral trade objectives vis-a-vis Japan. As noted in U.S. President (2000, pp. 215-34), there have been extensive bilateral discussions and agreements negotiated with Japan designed to expand access for U.S. firms to Japan's domestic market. These have included:

- 38 market-opening trade agreements with Japan since 1993, coupled with monitoring and enforcement of these agreements, including the use of "objective" criteria to assess progress under each agreement. Some of the most significant developments are noted below.

    - **Insurance**: The 1994 U.S.-Japan Insurance Agreement was designed to achieve a substantial increase in market access and sales for foreign insurance providers and

intermediaries in Japan. A second agreement (December 15, 1996) was designed to achieve substantial deregulation of the "primary" life and non-life sectors, which account for about 95 percent of Japan's insurance market, and to avoid radical change in the remaining sector that includes personal accident, cancer, and hospitalization insurance. There have been continuing official consultations under the two insurance agreements dealing with specific matters to promote increased access and competition in the provision of insurance services in the Japanese market.

- **Flat Glass**: An agreement was concluded in January 1995 aimed at opening the Japanese market, which is dominated by three large producers, to increased imports of flat glass. There has not been any appreciable market penetration. The agreement expired at the end of 1999, and discussions of how to improve foreign market access are to be continued.

- **Auto and Auto Parts**: In August 1995, an Automotive Agreement was designed with the objective of eliminating market-access barriers and expanding sales opportunities for foreign firms in the Japanese market. The United States established an Interagency Enforcement Team to assess progress under the agreement. Due to the prolonged economic downturn in Japan, overall vehicle and parts sales have declined significantly, including sales by U.S. manufacturers. The United States has continued to discuss with Japan proposals for further deregulation, standards-related issues, measures to improve transparency, and actions to enhance competition in the automotive sector in Japan.[5] The Agreement expires in December 2000.

- **Government Procurement**: Bilateral government-procurement agreements have been concluded in the areas of: telecommunications (including an agreement covering NTT procurement); computers; supercomputers; satellites; medical technology; and construction/public works. The objective of these agreements is to expand Japanese public-sector procurement of foreign products and services. The agreements address such matters as: lack of consistent and equal access to information regarding upcoming procurements; insufficient opportunities to comment on, and participate in, the development of specifications; over-reliance on sole-sourced procurements; use of unique or Japan-specific technical standards as opposed to international standards; and lack of impartial bid protest systems.

- **Investment**: A U.S.-Japan Investment Agreement was concluded in July 1995. The Agreement focuses on both structural change and government facilitation designed to attract foreign direct investment to Japan. There are continuing consultations on measures needed to remove existing barriers in order to improve the FDI climate in Japan.

- **Sectoral Issues**

  - **Steel**: The United States has been concerned about the impact of increased steel imports from Japan on U.S. firms. These imports have been monitored since early 1999 and coupled with statements that safeguards and antidumping actions could be introduced unless imports are rolled back.[6] In 1999, dumping orders were issued against Japan on certain hot-rolled carbon steel flat

[5] For details, consult U.S. Department of Commerce and The Office of the U.S. Trade Representative (1999).

[6] See "White House Report to the Congress" (1999) for a statement on conditions in the steel industry and an action plan that encompasses: bilateral efforts to counter unfair trade practices and strong enforcement of U.S. laws;

products and stainless steel sheet and strip in coils. A number of dumping investigations against Japan on other steel products have also been requested by U.S. steel producers.

- **Rice**: Japan established a minimum-access commitment for rice imports in the Uruguay Round negotiations. On April 1, 1999, Japan introduced a new rice regime that transformed the existing import-quota system into a tariff-quota system. Under "tarrification," a specific duty is applied to imports outside of Japanese minimum-access rice imports. The United States is now the single largest foreign supplier of rice to the Japanese market and is actively monitoring Japan's foreign rice purchases.

- **Consumer Photographic Film and Paper**: Following the unfavorable WTO Dispute Settlement panel ruling, the United States established an interagency and monitoring committee in February 1998 to conduct semi-annual reviews of the implementation of Japan's representations to the WTO regarding its efforts to ensure the openness of its markets and its distribution system to imports of photographic film and paper.[7]

- **Semiconductors**: On June 10, 1999, the United States, Japan, Korea, and the European Commission announced a new, multilateral Joint Statement on Semiconductors designed to ensure fair and open global trade in semiconductors. Chinese Taipei subsequently became a party to the Joint Statement. There were three previous semiconductor agreements designed to open the Japanese market to foreign semiconductors, improve cooperation between Japanese users and foreign suppliers, and eliminate tariffs. Since 1996, when the foreign share of the Japanese market averaged more than 30 percent, the climate has changed from confrontation to cooperation. Following the December 1996 WTO Singapore Ministerial Meeting, a multilateral Information Technology Agreement was negotiated that will substantially eliminate all semiconductor tariffs worldwide. The World Semiconductor Council was created so that member countries could regularly discuss and engage in cooperation concerning global semiconductor issues.

- **Deregulation**: Agreement on concrete deregulatory actions that Japan will take to improve U.S. sectoral access in telecommunications, housing, financial services, insurance, medical devices and pharmaceuticals, energy, and legal services, and to further structural improvements in distribution, competition policy, and transparency.[8]

    - Telecommunications: Japan agreed to bring interconnection rates to competitive, market-based levels and to develop guidelines to reduce restrictions faced by telephone carriers. Japan also committed to ensure that NTT's retail pricing of services, relative to interconnection rates, does not impair competition.

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consideration of escape-clause (Section 201) safeguards actions; an early warning system to monitor import trends; restoration of global economic growth and ensuring market-based reform; tax relief for the steel industry; and adjustment assistance for steelworkers and their communities.

[7] See Office of the United States Trade Representative and United States Department of Commerce (1999) for the second report on access to Japan's photographic film and paper market.

[8] See Office of the United States Trade Representative (2000) for the third report under the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy.

- Housing: Japan has adopted Public Comment Procedures to make it easier for building-material suppliers to participate in the formulation and implementation of revisions to the Building Standard Law, the cornerstone of Japan's housing policy, and to implement performance-based standards for certain types of wood housing. Discussions have been held, in the context of a new WTO negotiating round, for the purpose of eliminating tariffs on value-added wood products.

- Financial Services: Measures have been implemented under Japan's "Big Bang" initiative to liberalize transactions involving new financial products, increase competition and lower costs to facilitate financial trading, and enhance accounting and disclosure standards.

- Insurance: Measures are being taken to streamline the current product approval system and to clarify Japanese Government rules and regulations covering insurance so that Japanese consumers will have available a wider array of new, innovative, and cost-competitive insurance products.

- Medical Device/Pharmaceutical/Nutritional Supplement Products: More attention is to be given to pharmaceutical pricing reform and encouragement of innovations to improve the availability of pharmaceuticals, medical devices, and nutritional supplements.

- Energy: Japan is engaged in efforts to deregulate its electricity and natural gas sectors and to reduce energy costs.[9]

- Legal Services: Efforts are being made to remove barriers that restrict Japanese and foreign persons and firms from obtaining fully integrated transnational legal services for domestic and cross-border transactions.

- Distribution: Japan has taken steps to abolish the Large-Scale Retail Store Law and has agreed to decentralize the monitoring of establishment of large stores and to promote more competition.

- Competition Law and Policy: The Japan Fair Trade Commission (JFTC) has taken measures to enhance greater competition among trade associations, identify and rectify private restraints of trade, reduce administrative guidance that supports anticompetitive behavior, and provide for more consultation to enhance competition. Measures have also been taken to enhance greater transparency in public procurement procedures, and discussions are being held to design a private remedy system to deal with antimonopoly violations.

- Transparency and Other Government Practices: A foundation is being developed for a more transparent and accountable regulatory system to allow for public review and comment on draft regulations and enactment of an information disclosure law.

- **Administration of U.S. Trade Laws and Regulations**: The United States has a number of legal statutes and provisions that authorize the use of trade-remedy measures to deal with allegedly harmful

[9] See "Comments of the United States Government on the Draft Report on Electricity Transmission by the Electric Utility Industry Council, Joint Subcommittee on Basic Policy Instruments and Electricity Charges," June 18, 1999.

effects that the policies of trading partners may have on U.S. interests. These measures include: safeguard actions; anti-dumping (AD) and countervailing duties (CVDs); Section 301 actions; and special arrangements for agricultural products and for textiles and clothing. Some of these measures of particular concern to Japan are noted below.

- **Safeguard Actions**: Section 201 of the U.S. Trade Act of 1974 provides for safeguard relief to redress injury from increased imports for up to four years and possibly to a maximum of eight years. To obtain relief, the U.S. International Trade Commission (USITC) must make an affirmative determination that an industry has been seriously injured by increased imports. As of March 1, 2000, the United States had safeguard measures in place for: wheat gluten; lamb meat; certain wire (wire rod), and circular welded carbon quality line pipe. On February 1, 2000, the President imposed a tariff-rate quota on imports of wire rod for a period of 3 years on imports from all countries except Canada and Mexico. Import relief in the form of a tariff-rate quota was imposed for a period of 3 years on imports of line pipe on February 11, 2000.

- **Anti-dumping (AD) and Countervailing Duties (CVDs)**: These measures have a long history as U.S. trade-law remedies, and the procedures and criteria used for investigations have been changed and elaborated over time in accordance with changes in U.S. legislation and agreements reached in periodic GATT negotiations. AD actions are aimed against presumptively "unfair" pricing practices of firms while CVD actions are aimed against practices (e.g., subsidies) of foreign governments. AD and CVD investigations are initiated at the request of firms, labor unions, or coalitions of parties and are addressed simultaneously to the USITC and International Trade Administration (ITA) of the U.S. Department of Commerce. Once the USITC makes a determination of material injury, the ITA then establishes the dumping-margin rate of duty to be applied. An analogous procedure is followed for CVD petitions.

  Information on U.S. anti-dumping investigations from 1980-1998 is provided in Table 11. Initiations peaked in 1992 with 84 cases and declined to 15 in 1997. However, initiations (particularly involving steel) increased to 36 cases in 1998. The geographic distribution of AD orders in effect on January 1, 1999 is indicated in Figure 1. Japan, with 16.2 percent of the 297 cases was the single largest country affected. The importance of iron and steel and products thereof is evident, accounting for 41.1 percent of all products.

  U.S. CVD investigations from 1980-1998 are noted in Table 12. They also peaked in 1992, with 22 cases, and have since fallen to 6 in 1997 and 11 in 1998. There were no CVD orders in effect involving Japan as of January 1, 1999, as is evident in Figure 2. The importance of iron and steel and products (58.8 percent) is further evident in the commodity breakdown in Figure 2.

- **Section 301 and Related Actions:** There is a panoply of U.S. trade tools that is applied in conjunction with bilateral and WTO mechanisms to promote foreign compliance with U.S. laws and, to an extent, address issues that are outside the scope of the WTO.

  - **Section 301** of the Trade Act of 1974 is the principal U.S. statute for addressing allegedly unfair foreign practices that may affect U.S. exports of goods or services. A procedure is provided whereby interested parties may petition the USTR to investigate a foreign government policy or practice and take action. The USTR may also self-initiate an investigation. The USTR is required to seek consultation with the foreign government involved, and, if no settlement is reached and the investigation involves a trade agreement, a WTO dispute settlement procedure must be invoked. Once the investigation is concluded and

if no settlement is reached, the USTR will decide if any actions are to be taken to rectify damage being done to U.S. interests.

An indication of Section 301 cases initiated in 1996-1998 is provided in WTO (1999b, pp. 87-89. One of the 18 cases was self-initiated by the USTR against Japan and involved Japan's prohibition on certain agricultural products. The United States requested consultation with Japan in the WTO dispute settlement mechanism (DS 76). A panel was appointed and found that Japan had acted inconsistently with the WTO Sanitary and Phyto-Sanitary (SPS) agreement, and the panel report was upheld by the Appellate Body in 1999.

Earlier in October 1994, the USTR self initiated a Section 301 investigation of Japan's autos and auto parts policies. An agreement was reached in June 1995, but, as noted above, there has not been a significant improvement in the market positions of U.S. and foreign auto firms. The current Automotive Agreement will expire in December 2000.[10]

In response to a petition filed by the Eastman Kodak Company regarding market access barriers in Japan's photographic film and paper market, USTR initiated a section 301 investigation in July 1995 and WTO dispute settlement proceedings in June 1996. In January 1998, Japan was found not to be in violation of its WTO obligations. Subsequently, the USTR and Department of Commerce established a monitoring and enforcement committee to review Japan's implementation of its formal representation to the WTO concerning the openness of its market to imported photographic film and paper. Monitoring is continuing.[11]

- **Super 301** provisions were introduced in the Omnibus Trade and Competitiveness Act of 1988 and, after allowing them to lapse subsequently, they were reinstated in March 1994. The USTR is required to submit a report to Congress on U.S. trade expansion priorities and to identify "priority foreign country practices" whose elimination would benefit U.S. exports. This authority lapsed in 1998 but was reinstated on March 31, 1999. No priority foreign country practices were identified as of April 1999, but some dispute settlement cases were announced. None of these involved Japan.

- **Special 301** provides for investigation against "priority foreign countries" that may infringe on U.S. intellectual property rights (IPRs). In its annual *National Trade Estimates Report*, the USTR includes the following Special 301 categories: Priority Foreign Country List; Priority Watch List; Watch List; and Special Mention. Japan is not currently singled out under this authority.

  Japan was downgraded to a "monitored country" in 1997. But the USTR has expressed concern with end-user pirating and protection of digital broadcasting as well as with the protection of trade secrets in Japan's judicial system, protection of confidential information in Japan's Patent Agency, and with the burdens on patent holders to demonstrate that patents were used by infringers.

- **Telecommunications** – Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires the USTR to review the operation and effectiveness of U.S. telecommunication trade agreements. Activity under this authority has been greatly expanded following completion and implementation on February 5, 1998 of the WTO Agreement on Basic

[10] See U.S. Department of Commerce and The Office of the U.S. Trade Representative (1999) for a report on autos and auto parts.
[11] See footnote 6 above.

Telecommunications. The USTR has conducted three reviews since the Agreement came into effect. In 1998, the United States sought new Japanese rules for international service so as to allow competition and to lower retail prices. In 1999, Japan eliminated restrictions on the use of leased lines by new entrants and eliminated a premium charged to competitors for calls to certain NTT customers. In 2000, Japan was called to task for its alleged failure to implement cost-oriented interconnection rates, and discussions were held to address these issues. On July 18, 2000, it was announced that Japan had agreed to lower substantially its telecommunication interconnection rates.[12]

- **Government Procurement** – Title VII of the 1988 Omnibus Trade and Competitiveness Act has required the USTR to report annually on countries that are in violation of their obligations under the WTO Government Procurement Agreement (GPA) as well as non-signatory countries that are judged not to apply transparent and competitive procurement procedures and that may show evidence of corruption and bribery in procurement practices. This authority expired on April 30, 1996 but was reinstituted on March 31, 1999 and extended to the NAFTA and to other agreements on government procurement to which the United States was a party. Japan has not been singled out under the new authority.

  There is a 1994 U.S.-Japan Public Works Agreement that aims at reforming bidding and contracting procedures for public works in Japan as a means of enhancing transparency, objectivity, and competition as well as strengthening non-discrimination. The United States has continued to express concern about Japan's adherence to this Agreement. The annual consultation provision of the Agreement expired on March 31, 2000, and Japan has to date rejected the U.S. request to extend this provision. Depending on the outcome of discussions, Japan could be singled out under Title VII.

  Following a complaint in April 1996 that Japan's National Police Agency (NPA) was discriminating against a U.S. supplier in a wireless communication system, USTR determined that Japan was potentially in violation of both its WTO government procurement obligations and its obligations under the bilateral government-procurement agreement. The NPA subsequently agreed to reopen the procurement and issued a new Request for Proposals in August 1997.

It is evident from the preceding discussion that the United States pursues bilateral trade policies vis-à-vis Japan in an expressly deliberate manner. Many U.S. actions are designed to promote the interests of U.S. firms seeking greater access to Japan's domestic markets. This raises the question of how effective the U.S. bilateral policies have been in pursuing such greater market access. There have been a number of studies that have addressed the question of effectiveness. Greaney (2000) cites one type of study that relies on public documents and interviews with government and/or industry officials, and a second type that looks more directly at the trade impacts involved. She criticizes the first type of study as being subjective and possibly open to biased assessments, and the second type of study as being too

[12] See Office of the United States Trade Representative, Press Release 00-55.

aggregated or not well specified in terms of measuring the trade impacts. Greaney uses industry-level data for 1980-1995, and she finds only a few bilateral agreements and actions that suggest positive trade impacts, and a small number that may involve possible trade diversion rather than trade creation. In her conclusion, she asks why the U.S. Government is so keen to incur the costs involved in negotiating bilateral agreements with Japan when the benefits are so limited. She suggests the reason appears to be that the political gains from the actions taken may outweigh the economic gains.

V. Japan's Bilateral Trade Relations and Policy Initiatives with the United States

The preceding section was devoted to a discussion of U.S.-Japan trade relations and policy initiatives from a U.S. perspective. In this section, I address Japan's perspective on its bilateral relations with the United States. For this purpose, I will rely on the Ministry of International Trade and Industry (MITI) publication, *2000 Report on the WTO Consistency of Trade Policies by Major Countries*. Japan's major issues relating to the United States are listed on pp. iii-iv of the Executive Summary of the Report and discussed at length in the individual chapters. I summarize these issues below:

- **National Treatment Principle**

  Harbor Maintenance Tax (Harbor Services Fee: Since 1987, the United States has imposed ad valorem freight charges of 0.125 percent on imported products involving use of U.S. harbors. Ship owners or exporters voluntarily pay the tax quarterly. The Supreme Court ruled in 1998 that the tax on exports was unconstitutional and exports and exporters were therefore no longer required to pay the tax. In 1995, the U.S. Government introduced a bill to substitute a harbor services fee in lieu of the harbor maintenance tax. But no action has been taken to date on this bill, and there is concern that it may discriminate against foreign freight providers and therefore violate national treatment under the WTO.

- **Quantitative Restrictions**

  Import Restrictions on Yellow-fin Tuna – This is related to the tuna-dolphin case in which the U.S. import restrictions on yellow-fin tuna were found to be in violation of the GATT. The United States agreed that the import restrictions would be removed if an enforceable international agreement were reached in support of the Panama Declaration of 1992 that was designed to regulate the incidental intake of dolphins. The legally binding International Dolphin Preservation Agreement was agreed upon, but the United States has yet to remove the embargo on yellow-fin tuna that it had previously adopted.

  Import Restrictions on Shrimp and Shrimp Products – This relates to the so-called shrimp-turtle case in which U.S. restrictions on imports of shrimp were imposed on those countries

(including Japan) in which acceptable turtle-excluding devices were not being used. The U.S. measures were found in dispute settlement proceedings to be in violation of the WTO Agreement. But the United States has yet to change its measures to conform with its WTO obligations.

Export Restrictions on Logs – To conserve the habitat of spotted owls, the United States has banned the export of logs from federally owned forests and restricted exports from state-owned forests. However, the United States allows domestic sales of logs without any restriction and promotes exports of lumber. The ban and restrictions on exports of logs thus appear to be designed to protect U.S. domestic lumber mills and may therefore be in violation of the WTO Agreement.

- **Tariffs**

Method of Calculating Tariffs on Clocks and Wristwatches – The United States calculates tariffs on finished clocks and watches as the aggregate of the tariffs on their components. While this method of calculation is not a violation of WTO rules, it fails to take into account that mechanical clocks and watches have been almost completely replaced by new technology that does not lend itself to the breakdown of components. Japan has requested therefore that the United States assign a flat tariff rate to the finished product rather than on the individual components.

- **Antidumping Measures**

As we have already noted in our discussion of U.S. measures designed to deal with alleged, unfair trade practices, antidumping (AD) actions are of major concern to Japan. The most recent U.S. AD actions involve imports of Japanese steel products. But there is a longer history of Japan's complaints that can be cited.

Irregular Governmental Actions in the Super-Computer Case – In May 1996, a bid by the Japanese computer manufacturer, NEC, was selected for a computer system to be procured by the U.S. National Center for Atmospheric Research. However, before the negotiations were completed, AD charges were filed that led to decisions by the U.S. Department of Commerce and by the U.S. International Trade Commission that the U.S. computer manufacturer, Cray Research, had been threatened with material injury. Japan expressed concern that the preliminary analysis that dumping had occurred was announced prior to the beginning of the AD investigation. Japan has requested further explanation from the U.S. Government, and that such anomalous actions be avoided in the future.

Applying Anti-Circumvention Measures – The revised U.S. antidumping (AD) law departs from the WTO AD Agreement insofar as the U.S. law provides for measures to deal with anti-circumvention. Anti-circumvention may arise when companies subject to AD duties try to circumvent the duties by shifting production to the importing country or to third countries and selling from there, or selling products with only minor modifications from those covered by AD duties. The difficulty that arises is that there are no standards for judging whether circumvention exists and how much the AD duties should be. As a result, the investigating authorities have considerable discretion and may decide upon AD duties that obstruct trade. Anti-circumvention measures are to be addressed in the ongoing deliberations concerning the WTO AD Agreement.

Problems Involved in Determining Dumping – The United States has restructured the basis for price comparisons in assessing whether there is dumping. The new elements relate to calculation of the "constructed export price," comparisons at comparable levels of trade, and the offset for

indirect selling expenses. As a consequence of the changes, the adjustments to be made when comparing the normal price with the constructed export price are problematic and subject to administrative discretion.

Problems Involved in Determining Injury – The conditions necessary to establish injury to firms in importing countries are not clearly defined in the AD Agreement. The U.S. International Trade Commission must make its preliminary determining regarding injury within 45 days, which may be too short a time for the exporting firms to prepare their arguments about whether there has been dumping and injury. Further, determination of the cause of injury needs to take into account other factors such as changes in trade policies, the presence of subsidies, and how market shares are calculated when domestic producers consume significant proportions of like products internally.

Like Products – The determination of like products poses many difficulties in AD investigations when it comes to calculating AD duties. This determination may therefore be subject to abuse by the investigating authorities, as has been alleged by Japan in the cases of television receivers and color picture tubes that involved differences in technology and were different products as compared to the products under investigation.

Sunset Review – Because past U.S. AD laws lacked a sunset provision, U.S. AD duties have tended to remain in force much longer than in other countries. The new AD Agreement provides for a sunset clause to the effect that AD duties expire automatically after five years unless a review concludes that dumping and injury are still present. In the new U.S. AD law, all AD measures imposed prior to January 1995 are to be reviewed. A total of 46 AD measures against Japan have come up for review. As of January 1, 2000, 21 measures had been terminated, 1 was revoked due to changed circumstances, and 6 were maintained. The remaining 19 are still in process of review and require monitoring to insure that the review is being administered properly.

AD Measures on Steel Products – Since the summer of 1997, AD complaints have been filed against steel products in 12 categories from 25 countries, including Japan. These investigations cover 80 percent of Japan's steel exports to the United States. The Japanese Government has expressed concern about the protectionist aspects of this abuse of the U.S. AD regime, and they have found evidence of violations of the provisions of the GATT and WTO AD Agreements. Japan requested establishment of a WTO dispute settlement panel to deal with the U.S. actions in February 2000.

Problems with the U.S. **Antidumping Act of 1916** – In November 1998, an AD suit was brought in the Federal District Court of Ohio alleging that nine importers, including three Japanese trading houses, had engaged in dumping with the intention of harming the U.S. steel industry. Japan sought consultations at the WTO on this matter since the 1916 Act provides for compensation for damages and criminal penalties as relief measures rather then tariffs, and the investigation did not follow WTO AD procedures. Japan requested a dispute settlement panel in June 1999, and a final report is expected sometime in the year 2000.

- **Subsidies and Countervailing Measures**

Actions involving subsidies and countervailing measures are aimed against government practices and are the counterpart of AD measures just discussed. Japan has several concerns about countervailing duties (CVDs) that have been imposed by the United States.

Imposition of Countervailing Duties on Hot-rolled Lead and Bismuth Carbon Steel Products – The issue here involves the U.S. imposition of CVDs in 1995-1997 on certain types of steel products imported from the United Kingdom, even though the companies involved had sold their assets. The United States argued that the conditions responsible for the CVDs were transferred as part of the selling companies. The EU requested a WTO panel, which found that the United States was in violation of the WTO Subsidies Agreement. Japan was an interested third party, in agreement with the EU.

Tax Treatment for "Foreign Sales Corporations" – Since 1985, the United States has allowed foreign sales corporations (FSCs) to exempt a portion of their export income from taxes if their exports contain a specified level of U.S. products. Parent companies can also deduct from their income taxes dividends paid to them by these FSCs. The EU has claimed that this arrangement represented an export subsidy and was in violation of the WTO Subsidies Agreement. A WTO panel was established in September 1998, with Japan as an interested third party. The panel concluded that the arrangement constituted an export subsidy and recommended that the United States eliminate this arrangement by October 2000.

Debt Guarantees for the Steel Industry – Japan has expressed concern about a U.S. program initiated in 1999 to provide a total of $1 billion in debt guarantees for steel makers meeting certain lay-off and production-cut criteria. Since these guarantees may have a negative impact on Japan's steel industry according to the Subsidies Agreement, the arrangement is being monitored by Japan.

- **Safeguards**

Safeguard Measures on Steel Products – On December 30, 1998, eight U.S. steel mills and the steelworkers' unions filed a petition with the USITC, claiming that an upsurge of imports of steel wire rods was causing serious injury and that safeguard measures be instituted. The USITC commissioners were equally divided in its determinations. On February 11, 2000, President Clinton announced safeguard measures in the form of a tariff-rate quota for a period of 3 years and a day, with an increase in the quota level of 2 percent annually and a threshold level of 1.58 net tons, additional import duties on the quota of 10 percent, 7.5 percent, and 5 percent, respectively, over the three years involved, and exemption for imports from NAFTA members (Canada and Mexico).

On October 28, 1999, a similar petition was filed with the USITC regarding imports of welded carbon quality line pipe. The USITC commissioners were once again divided. The President announced on the same day, as in the case of steel wire rods, the introduction of safeguard measures that involved additional import duties of 19 percent, 15 percent, and 11 percent in each of the three years to be covered. In both of these cases, the Government of Japan has questioned the USITC findings of serious injury and the particular remedial measures introduced that were considered to be protectionist in intent.

Lamb Meat – Following a petition on October 7, 1998 by seven American lamb producers and industry associations requesting safeguards action to deal with a claimed upsurge in imports of fresh, chilled, or frozen lamb meats, the president introduced a safeguards arrangement on July 7, 1999. Australia and New Zealand, the major exporters involved, asked for establishment of a WTO panel, which was constituted on November 19, 1999. Japan, Canada, the EU, and Iceland joined as a third party.

WTO Consistency of Section 201 of the Trade Act of 1974 – While Section 201 provides much of the basic structure of the WTO Agreement on Safeguards, Japan has expressed concern about using safeguards on the grounds that they may not be investigated adequately and may be invoked selectively against particular countries. Japan has also noted that voluntary quantitative restrictions on a country's exports are not permitted under the WTO Agreement.

Invocation of Transitional Safeguards – The United States invoked 28 transitional safeguards under the Agreement on Textiles and Clothing (ATC) in the first half of 1995. The ATC was created in the context of the eventual elimination of the Multi-Fibre Arrangement. Following WTO panel rulings in three cases against the United States that were filed by Costa Rica and India, the U.S. rescinded the measures. There remains some concern though about further actions that the United States might take that may be inconsistent with the ATC.

- **Rules of Origin**

Lack of Clarity and Consistency – It appears that U.S. rules of origin are rather complicated insofar as they cover a variety of circumstances in their application: (1) rules for origin marking; (2) rules for enforcement of quantitative restrictions of imports of textile products; (3) rules for enforcing other trade-related measures; (4) preferential rules applied to goods originating in developing countries; and (5) NAFTA rules of origin and origin marking. Rules of origin about marking may be confusing and unpredictable to exporters since they involve determining whether and to what extent a product has been "substantially transformed," and this is done on a case-by-case basis by the U.S. customs authorities. Efforts are underway to harmonize especially definitions of non-preferential rules of origin, but there is a continuing need to determine if the rules are administered in a consistent and impartial manner.

Amending the Rules of Origin for Textile Products – The issue here is to determine the country for which origin will be granted when textile products pass through individual phases of the production process that are performed in different countries. Examples include different countries in which the sewing and cutting of clothing are performed and where the activities of dip dyeing, printing, and other ancillary processes take place. The EU and United States had a WTO dispute about processing and exporting scarves using silk weaves from China and cotton weaves from Turkey and Egypt, and identifying the products as made in the EU. Japan has been an interested party in this dispute that is still ongoing, pending completion of the harmonization of non-preferential rules of origin.

- **Standards and Conformity Assessments**

American Automobile Labeling Act – Since 1992, all passenger cars and light trucks must carry labels indicating their domestic content percentage of value added in the United States and Canada. This system of labeling supposedly will help consumers make better purchasing decisions if they can determine the proportion of the automobile's price produced within the United States/Canada. Japan has countered that the system discriminates against foreign automobiles since: (1) it distinguishes between parts purchased from wholly-owned subsidiaries and independent suppliers; (2) calculations are based on model averages and tend to understate the content of cars produced by foreign automotive makers within the United States; (3) content is calculated at the point of final assembly, but the painting process has to be geographically separate from the location of final assembly, a requirement that discriminates against foreign companies using integrated production systems; (4) content is calculated only in terms of parts prices and excludes the labor and assembly costs for final assembly; and (5) U.S./Canadian

content is handled jointly, which may disadvantage countries other than Canada and be in violation of Most-Favored-Treatment.

Regulation of Corporate Average Fuel Economy (CAFÉ) – CAFÉ regulations have required that domestic and imported vehicles be distinguished and their average fuel economy be calculated separately. Problems arise for foreign manufacturers of large cars with low fuel economy insofar as they are not permitted to include small cars with high fuel economy in meeting the CAFÉ regulations. The United States maintained in a case involving the EU that the CAFÉ regulations did not harm commercial interests.

Adoption of the Metric System – The fact that the United States has not adopted the metric system may constitute a significant barrier to international trade since the metric system is used by virtually all other countries in the world. Even though the United States made some commitments to adopt the metric system as part of the Structural Impediments Initiative agreements with Japan, it is estimated that only about 20 percent of private-sector businesses in the United States use the metric system. Japan and presumably other countries are therefore interested in encouraging greater adoption of the metric system in the United States.

- **Trade in Services**

State Regulations for Foreign Insurance Companies – Each U.S. state has its own insurance laws and insurance regulators, and there are no federal laws or regulatory agencies regulating insurance. As a consequence, many states have measures that may discriminate against foreign insurance companies. In the Japan-U.S. insurance pact of 1994 and the additional concessions in the WTO Agreement, the United States committed to: (1) relaxation of state regulations; (2) acceleration of licensing procedures; and (3) relaxation of nationality requirements for corporate executives. There has been some limited progress in improving regulations, but, on the whole, it appears that many regulations are still in place that make market entry difficult for foreign insurance companies.

Basic Telecommunications – While the United States has one of the most open telecommunications markets in the world, there are still some problems with the access of foreign companies to the U.S. markets. New Federal Communications Commission (FCC) regulations on the entry of foreign suppliers came into force in February 1998. The new rules: retain foreign ownership restrictions on wireless telecommunications services; provide the FCC with wide discretionary powers in specifying criteria for "public use" and "extremely high threat to competition" in the review standards for carrier certification and wireless station licensing; may allow licenses to be refused on grounds of "foreign policy and trade concerns"; and permit competing carriers to file petitions for licenses to be refused.

Maritime Services – The United States provides various forms of assistance to its domestic shipping industry. These include: a variety of cargo holding policies that require the use of U.S.-registered ships; retaliatory measures taken under the Jones Act against discriminatory actions by foreign governments that allegedly violate the interests of U.S. shipping; requiring that shippers operating in internal U.S. waters use ships built in or registered in the United States; requiring that U.S. ships with U.S. crews be used to transport Alaskan oil; providing operating cost subsidies for U.S.-registered ships; and giving the U.S. Federal Maritime Commission the authority in 1998 to regulate the shipping fees charged by foreign shipping companies.

- **Protection of Intellectual Property**

  Hilmer Doctrine – The United States patent system includes the "first-to-invent" principle, which may negatively affect the stability of patent rights. The U.S. interpretation of the so-called Hilmer doctrine may be in breach of the Paris Convention for the Protection of Industrial Property. That is, the priority date in the Paris Convention has been interpreted judicially in the United States as not preventing the grant of a patent by another applicant.

  Submarine Patents – It is possible in the United States for a patent applicant to keep the application secret and intentionally delay the process of patent examination. If, at a later time, a third party merchandises the same technology and there is an infringement of the patent, the original patent holder may collect royalties. In the U.S.-Japan Framework Talks in 1993, the United States agreed to establish an early publication system and to calculate a patent term not from the date on which the patent was granted but from the date the first application was filed. Subsequent legislation has addressed the issue of early publication. But there may still be delays in the U.S. patent-examining process and exemptions in the early publication system that are detrimental to Japanese interests and that need therefore to be monitored closely.

  First-to-Invent Principle – The United States is the only country that uses the first-to-invent principle. This differs from the first-to-file principle under which a patent can be granted to the applicant who first filed an application for the same invention. While the first-to-invent principle is not in violation of the TRIPS Agreement, it may make the validity of a patent unpredictable and insecure if later challenged by a first inventor. This may be detrimental to Japanese interests, and it can be argued accordingly that the United States should switch to the first-to-file principle.

  Re-examination System – The rights of third parties to request review of the validity of a U.S. granted patent are subject to problems arising from requirements about proving priority and participating in the re-examination process. Although U.S. legislation in 1999 made some improvements in the re-examination system, the difficulties faced by third parties apparently still remain and are in need of resolution.

  Trademarks Systems – Section 211 of the Omnibus Act of 1998 states that the United States will not recognize renewal or exercise of rights for trademarks related to assets confiscated by Cuba. This provision appears to be in violation of the national treatment and most-favored-nation obligations of the TRIPS Agreement and is under discussion by interested nations.

  Section 337 of the Tariff Act of 1930 – This legislation targets unfair import practices by excluding imports that infringe upon valid U.S.-registered intellectual property. The Omnibus Trade and Competitiveness Act of 1988 removed the requirement of injury in actions taken. U.S. practice may be in violation of the national treatment provisions of the GATT, and it may also subject foreign suppliers to lengthy periods arising from the procedures for U.S. enforcement of intellectual property rights. While the United States has improved upon the Section 337 procedures, administrative problems still remain.

- **Government Procurement**

  State of Massachusetts Act Regulating State Contracts Business with or in Burma – As mentioned in our earlier discussion of WTO dispute settlement actions, Japan has contended that the State of Massachusetts prohibition on public procurement involving in business with Burma is in violation of the Government Procurement Code. A panel was set up in 1998, but its authority

lapsed in February 2000. The U.S. Supreme Court ruled in June 2000 that portions of the Massachusetts law were unconstitutional because they infringed on federal prerogatives.

"Buy American" Legislation – This legislation dates from 1933 and provides that U.S. federal purchasing grant preferential treatment for U.S. domestic products and thus expressly discriminates against foreign products. While some of the provisions of the legislation have been moderated over time, the basic Buy American Act has remained unchanged. There are also procurement laws at the state and local levels that contain provisions similar to the federal Act in giving preferential treatment to government procurement of goods produced domestically and locally. The United States has offered to include 37 states under the WTO Government Procurement Agreement, but adherence to the Agreement in many states has yet to be fully carried out.

National Security Exceptions – The 1994 Government Procurement Agreement permits signatories to use national security as a reason to refuse foreign tenders, but there are no clear standards as to when this would be applied. The issue then is that national security may be used as an excuse to limit competition and thereby improve the competitiveness of U.S. firms.

- **Unilateral Measures**

In Section IV above, I have described the numerous actions taken by the United States in the multilateral and bilateral contexts. The Japanese Government has taken exception especially to the U.S. unilateral measures under Section 301 and related provisions of U.S. Trade Acts. It is worth quoting Japan's official position as stated in MITI's *2000 Report on the WTO Consistency of Trade Policies by Major Trading Partner* (pp. 232-33):

> "The United States is making active use of WTO mechanisms to resolve trade disputes. Such action should be regarded as positive. Nonetheless, it is unfortunate that even after the strengthened WTO procedures took effect, the US stance to use the initiation of Section 301 investigations to pressure trading partners to concede to concessions remains unchanged. It should be noted that the United States has tended to divide issues of concern into 'areas covered by the WTO' and 'areas not covered by the WTO,' while simultaneously initiating WTO dispute settlement procedures and procedures that could be defined as unilateral measures. By using this combination in tandem, the United States maintains that it may use Section 301 to take unilateral measures in areas not covered by the WTO Agreement.
>
> Such activities are, at the very least, contrary to the spirit of the WTO dispute settlement mechanism, which is supposed to be a 'central element in providing security and predictability to the multilateral trading system.' Furthermore, we would like to stress that, even if a dispute is in an area not covered by the WTO Agreement, if the unilateral measures themselves violate the Agreement, it would be possible to refer those measures to a panel. Japan's stance to seek a solution according to WTO dispute settlement procedures when a unilateral measure is taken remains unchanged. Japan should also continue to challenge problems on every occasion."

Section 301 and Related Provisions of U.S. Law -- In Section IV above, I described briefly the content of and procedures followed under Section 301 and related provisions. It is of interest to indicate Japan's official view of these essentially unilateral measures, as noted in MITI's *2000 Report:*

Section 301 – The USTR has broad authority under Section 301 as the result of its investigations to: (1) suspend, withdraw, or prevent the application of benefits of trade-agreement concessions; (2) impose duties and import restrictions on goods; and (3) levy or impose other restrictions on services such as restrictions on market entry for companies from the offending country. (p. 234)

Super 301 – "Super 301's automaticity introduced a new element of rigidity and unilateralism into US trade laws. Although USTR retained discretion in identifying priorities warranting immediate action, the annual process could prompt a USTR investigation without a petition ever being received from an interested party. In contrast, the decision to initiate an investigation under regular Section 301 procedures normally is prompted by a petition." (p. 241)

Special 301 – The investigation period under Special 301 is shorter than under the Uruguay Round TRIPS Agreement, which could create difficulties. Further, "The United States says that even if a country is in full compliance with the TRIPS Agreement, it will be designated a priority country if it is found to infringe on U.S. intellectual property rights in areas outside the scope of the Agreement. This stance reflects the U.S. position that unilateral measures without resort to WTO dispute settlement procedures are possible for items not covered by the WTO Agreement." (p. 243)

Telecommunications – The two main features of the telecommunications provisions are a mandate for negotiations under threat of unilateral measures and review of trade agreement implementation. As noted above, the United States had taken issue with the high cost of interconnection rates. Following bilateral discussions, Japan has agreed to reduce its interconnection rates.

Government Procurement – The United States has expressed concern about Japan's administration of government procurement arrangements involving computers, super computers, construction, and telecommunications. The main issue is whether U.S action that might be taken is in conformance with the WTO Government Procurement Agreement.

Others – "The United States has certain internal laws that provide for the application of unilateral measures to natural and juridical persons outside the United States for trade or security reasons. Many of these laws that set penalties for enterprises that invest in the targeted country seriously constitute barriers to the activities of enterprises, such as direct investment. [These measures]…use domestic laws to determine whether foreign companies are 'violating' the rules according to [the U.S.]…own criteria." (p. 248)

Helms-Burton Act – The Cuban Liberty and Democratic Solidarity Act of 1996 (Helms-Burton Act) was passed in the aftermath of the shooting down of small, private American aircraft by the Cuban military. This Act prohibits trafficking of property that was confiscated by the Cuban Government after 1959 and provides authority to deny U.S. visas to any individuals involved with the confiscation of property. The European Communities (EC) challenged the Helms-Burton Act in the WTO, and a panel was created in October 1996. The EC requested in April 1997 that the panel suspend its work, following diplomatic discussions between the United States and EC and other interested parties concerning less forceful administration of the Act by the United States.

> **Iran-Libya Sanctions Act** – This 1996 Act requires the U.S. president to impose sanctions on any U.S. or foreign person or company that makes investment in petroleum resources in excess of $40 million in these countries. The Act has met with great disapproval by several countries and companies, and, in response, the U.S. Government has not pursued enforcement.
>
> "**Excessive" Extraterritorial Application of Competition Law** – This issue is not a matter of consistency with WTO rules, but concerns the extraterritorial application of domestic law that is not permissible under international law. "We particularly note that the current US notion to apply antitrust laws extraterritorially to the importing country's domestic market structure based on the "the exporter's benefit" goes beyond the international consensus on extraterritorial application of competition laws." (p. 255)

In Section III preceding, I had occasion to review the main features of U.S. trade policy directed at Japan from the U.S. perspective, and in this section to provide a Japanese perspective on its concerns regarding U.S. trade policy. My reading of the issues is that Japan's two main involve: (1) U.S. resort to anti-dumping (AD) and safeguards actions; and (2) U.S. unilateral measures directed at Japan under Section 301 and related authority. U.S. AD actions diminished during most of the 1990s, but have increased in the past few years. As indicated in Section III, imports of steel products especially from Japan and other supplying countries have become the object of complaints from U.S. producers under both the AD and safeguards provisions of U.S. trade law. While the U.S. responses to the alleged unfair trade practices of foreign exporters are generally consistent with WTO rules, the fact remains that there is a good deal of discretion involved in the way that the U.S. actions are administered. The U.S. steel industry has a long history of invoking AD actions when it feels under pressure from foreign competition, and it has been able to leverage considerable support from the U.S. Executive Branch. From Japan's perspective, it is necessary accordingly to resist AD protectionist pressures by seeking more transparent administration of the U.S. AD and safeguards authorities, in particular the ways in which dumping margins are calculated and whether or not and the extent to which U.S. steel firms have been seriously injured by imports.

Japan has been highly critical of the use of Section 301 and related provisions in U.S. law because they can be applied unilaterally and may not be WTO consistent. The United States is the only major trading nation that has such unilateral authority, and it is a continuing bone of contention for all of

the countries at which the authority may be directed. It was believed with the creation of the WTO and the strengthening of the Dispute Settlement Mechanism that the United States might reduce its use of unilateral measures. Yet, as has been noted, the broad Section 301 authority is still widely used. This is the case even though it has been difficult to find clear evidence that the actions involved have had much effect in expanding U.S. exports to the countries being targeted. By the same token, it can be argued that U.S. pressures on Japan to change certain specified domestic policies and regulations may be in Japan's interest and can result in improved efficiency and gains in welfare. It seems clear that it would be preferable to use the WTO process to deal with these issues rather than relying on bilateral negotiations. Yet, we have to take as given the structure of U.S. unfair trade laws and the ways in which firms and workers can bring their self-interested pressures to bear on the Executive Branch and the Congress. Therefore, Japan and other countries must decide which U.S. unilateral initiatives and actions are acceptable to them on efficiency and welfare grounds and which initiatives and actions should be contended by resorting to the WTO process.

VI. Regional Trade Policy Initiatives

Both the United States and Japan are engaged in a number of regional arrangements. For the United States, this includes the North American Free Trade Agreement (NAFTA), which became effective in January 1994, and ongoing discussions and negotiations for a Free Trade Area for the Americas (FTAA). Both the United States and Japan are members of the Asia Pacific Economic Cooperation (APEC) forum. In an especially noteworthy change in its trade policy, according to the *Financial Times*, May 12, 2000, p. 1, Japan has recently been involved in discussing possible free trade agreements with Singapore and South Korea, and there has been some mention of similar arrangements with other Asian countries and possibly Mexico and Chile. There has also been some discussion of a so-called ASEAN Plus-3 free trade agreement in which Japan, China, and South Korea would join together with the ASEAN nations.

Each of these regional arrangements raises the possibility of trade diversion. This has been of concern in the case of NAFTA, given the tariff differentials involved and the somewhat restrictive rules of origin that apply in such key sectors as textiles and clothing and automobiles. Thus far, however, there does not appear any clear evidence suggesting that trade diversion has occurred, especially since, as Krueger (2000) has noted, Mexico has increased its exports considerably not only to the United States but to non-NAFTA countries as well since the inception of NAFTA in 1994. The other regional initiatives noted are still in the discussion stages, and some time will elapse before any final negotiations are completed.

VI. Conclusion

An effort has been made in this paper first to provide background on some of the main features and patterns of the exports and imports of goods and services of the United States and Japan as well as the inward and outward foreign direct investment of the two nations. I then reviewed the multilateral dimensions of each nation's trade policies, focusing especially on the dispute settlement actions implemented since the creation of the World Trade Organization in 1995. This was followed by a lengthy discussion of U.S.-Japan bilateral trade relations and policies in recent years from the perspective of each nation. Regional trade relations and policies were also discussed briefly.

I had occasion to review the trade policies of Japan and the United States not too along ago in Stern (1996, 1998). What I find interesting in looking back is that the trade-policy relations of these two nations seem to have entered a relatively quiescent period in comparison to the often heated policy disputes that had arisen in previous years. This change in atmosphere may be attributed in part to the increasingly important role that the dispute settlement mechanism has played since the creation of the WTO. It may also reflect the differences in the economic performance of the two economies during the 1990s, with rapid and sustained economic growth in the United States and continuing stagnation in Japan. It is fairly well established that protectionist pressures are sensitive to macroeconomic conditions. This is borne out by the data showing a significant decline in the use of anti-dumping (AD) and countervailing actions in recent years by the United States. An important exception is evidence that U.S. AD actions

have increased noticeably in the past two years, especially with regard to imports of steel, which is a sector of still great importance to Japan. The question then is whether U.S.-Japan trade relations will become more conflictual if there is a significant decline in the U.S. rate of economic growth.

Another factor of importance is Japan's apparent progress in recent years in promoting domestic deregulation in a number of key sectors. As a result, access to Japan's domestic market has been eased with respect both to imports of goods and services and inward FDI. These changes may portend more favorable conditions for Japanese firms domestically as well as in external trade, as efforts are continued to encourage more rapid economic growth to overcome the long period of stagnation.

A final point concerns the recent decisions by Japan to seek bilateral free trade agreements with important trading partners in Asia and in the Western Hemisphere. It is not clear whether this is a reaction to the problems being encountered in initiating a new round of multilateral negotiations. But whatever the explanation, it marks a potentially important departure in Japan's support of the multilateral trading system and the concern of the possibility of trade diversion that could be detrimental to global welfare.

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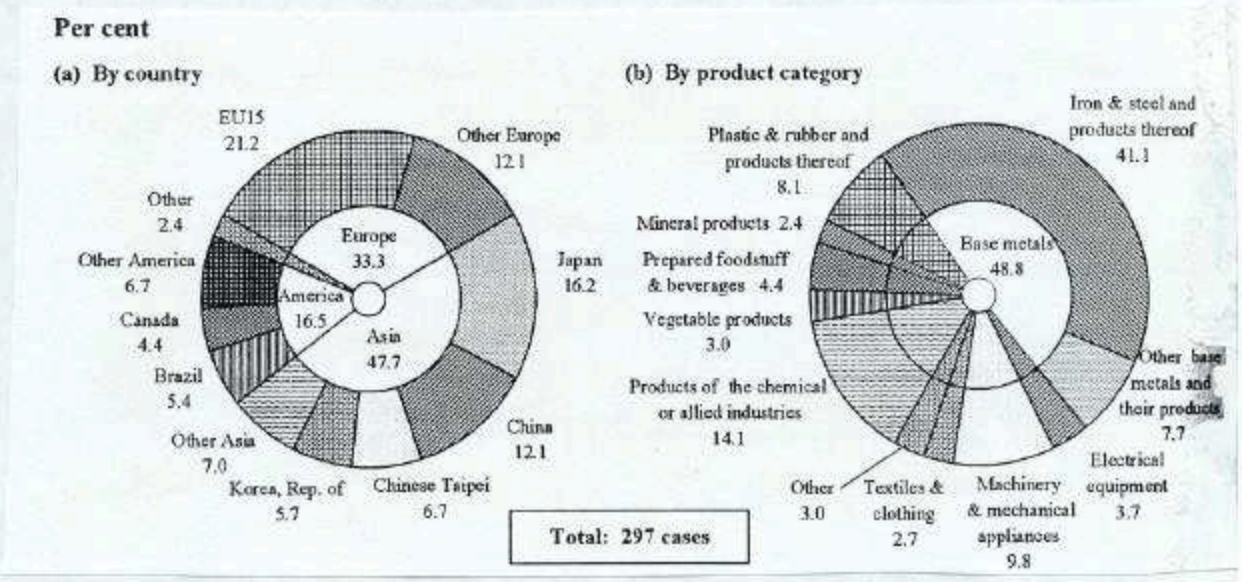
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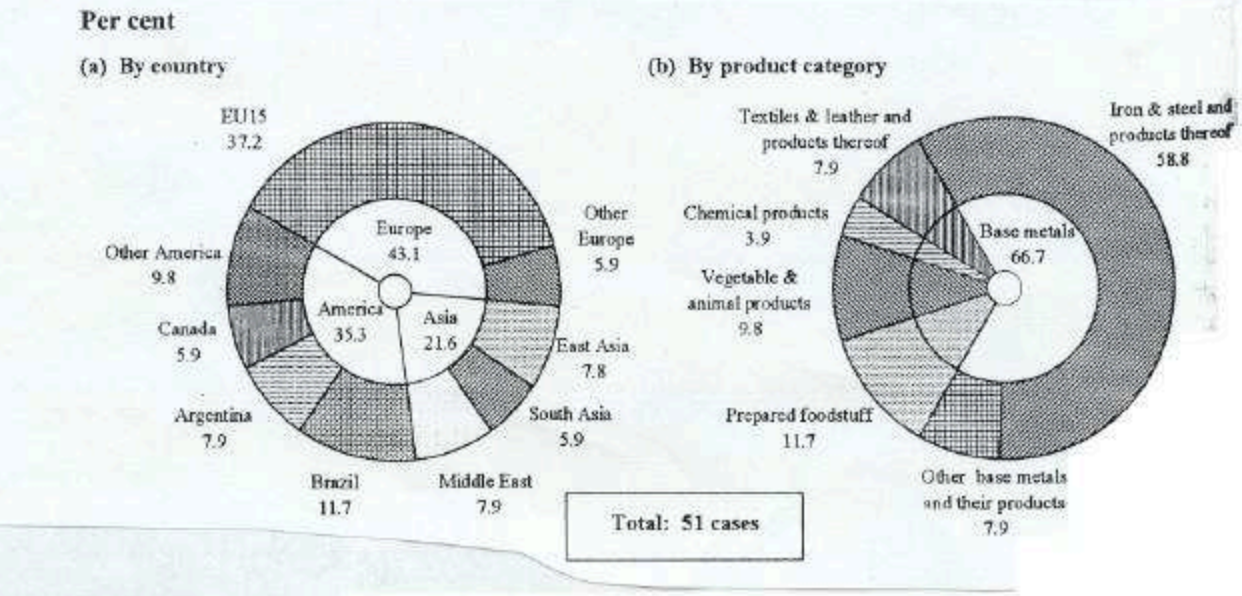
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Figure 1
Anti-dumping Duty Orders in Effect on 1 January 1999



Source: WTO (1999, p. 70).

Figure 2
Countervailing Duty Orders in Effect on 1 January 1999



Source: WTO (1999, p. 72).

TABLE 1: Commodity Composition of US Merchandise Trade, 1998

	Value (Billions of Dollars)			Percentage	
	Exp.	Imp.	Bal.	Exp.	Imp.
Agricultural products	**69.85**	**62.40**	**7.45**	**10.3**	**6.6**
Food	54.33	46.07	8.26	8.0	4.9
Raw materials	15.52	16.33	-0.81	2.3	1.7
Mining products	**22.95**	**84.63**	**-61.68**	**3.4**	**9.0**
Ores & other minerals	5.30	6.04	-0.74	0.8	0.6
Fuels	10.07	62.15	-52.08	1.5	6.6
Non-ferrous metals	7.57	76.44	-68.87	1.1	8.1
Manufactures	**558.11**	**757.56**	**-199.45**	**82.0**	**80.2**
Iron & steel	6.03	20.73	-14.70	0.9	2.2
Chemicals	69.30	56.44	12.86	10.2	6.0
Other semi-manufactures	39.00	66.85	-27.85	5.7	7.1
Machinery & transp. equip.	358.17	431.61	-73.44	52.6	45.7
Power gener. machinery	19.13	15.44	3.69	2.8	1.6
Other nonelec. machinery	65.40	61.37	4.03	9.6	6.5
Office & telecom. equip.	113.89	155.91	-42.02	16.7	16.5
Elec. mach. & apparatus	34.92	43.46	-8.54	5.1	4.6
Automotive products	61.01	129.83	-68.82	9.0	13.7
Other transp. Equipment	63.76	25.60	38.16	9.4	2.7
Textiles	9.22	13.46	-4.24	1.4	1.4
Clothing	8.79	55.72	-46.93	1.3	5.9
Other consumer goods	64.61	112.75	-48.14	9.5	11.9
Unspecified products	**29.52**	**39.76**	**-10.24**	**4.3**	**4.2**
Total	**680.43**	**944.35**	**-263.92**	**100.0**	**100.0**

Source: Adapted from WTO, *International Trade Statistics 1999.*

Table 2: US Merchandise Trade by Major Trading Partner and Product, 1998
(Billions of Dollars)

	Canada			EU(15)			Japan			Mexico		
	Exp.	Imp.	Bal.	Exp.	Imp.	Bal.	Exp.	Imp.	Bal.	Exp.	Imp.	Bal.
Agricultural products	10.30	19.26	-8.96	12.07	9.95	2.12	13.80	0.63	13.17	7.04	5.94	1.10
Mining products	6.21	22.77	-16.56	4.95	6.26	-1.31	1.82	0.82	1.00	3.34	7.06	-3.72
Manufactures	132.92	123.29	9.63	125.21	156.24	-31.03	40.64	120.56	-79.92	64.98	79.05	-14.07
Semi-manufactures	29.09	31.90	-2.81	26.17	45.99	-19.82	7.81	14.92	-7.11	14.55	6.95	7.60
Machinery and transport equipment	85.34	77.92	7.42	79.34	82.94	-3.60	24.76	92.84	-68.08	38.84	54.96	-16.12
Textiles, clothing, and other consumer goods	18.49	13.46	5.03	19.69	27.31	-7.62	8.09	12.80	-4.71	11.59	17.14	-5.55
Total	**154.15**	**177.92**	**-23.77**	**149.81**	**182.03**	**-32.22**	**57.88**	**125.09**	**-67.21**	**79**	**96.07**	**-17.07**

	China			Taiwan			Rest of World			World		
	Exp.	Imp.	Bal.	Exp.	Imp.	Bal.	Exp.	Imp.	Bal.	Exp.	Imp.	Bal.
Agricultural products	1.68	1.18	0.50	2.11	0.50	1.61	22.85	24.94	-2.09	69.85	62.4	7.45
Mining products	0.46	0.98	-0.52	0.60	0.10	0.50	5.57	46.64	-41.07	22.95	84.63	-61.68
Manufactures	11.91	72.18	-60.27	14.79	32.98	-18.19	167.66	173.26	-5.60	558.11	757.56	-199.45
Semi-manufactures	2.63	7.25	-4.62	2.51	4.11	-1.60	31.57	32.90	-1.33	114.33	144.02	-29.69
Machinery and transport equipment	8.24	22.43	-14.19	10.75	21.14	-10.39	110.90	79.38	31.52	358.17	431.61	-73.44
Textiles, clothing, and other consumer goods	1.04	42.50	-41.46	1.53	7.73	-6.20	22.19	60.99	-38.80	82.62	181.93	-99.31
Total	**14.26**	**75.09**	**-60.83**	**18.16**	**34.34**	**-16.18**	**207.17**	**253.81**	**-46.64**	**680.43**	**944.35**	**-263.92**

Source: Adapted from WTO, *International Trade Statistics 1999.*

TABLE 3: Commodity Composition of Japanese Merchandise Trade, 1998

	Value (Billions of Dollars)			Percentage	
	Exp.	Imp.	Bal.	Exp.	Imp.
Agricultural products	**4.09**	**56.59**	**-52.50**	**1.1**	**20.2**
Food	2.05	44.47	-42.42	0.5	15.8
Raw materials	2.04	12.13	-10.09	0.5	4.3
Mining products	**5.99**	**60.02**	**-54.03**	**1.5**	**21.4**
Ores & other minerals	0.84	8.81	-7.97	0.2	3.1
Fuels	1.24	43.27	-42.03	0.3	15.4
Non-ferrous metals	3.91	7.94	-4.03	1.0	2.8
Manufactures	**365.56**	**158.73**	**206.83**	**94.2**	**56.6**
Iron & steel	14.87	3.20	11.67	3.8	1.1
Chemicals	27.24	20.57	6.67	7.0	7.3
Other semi-manufactures	17.08	12.14	4.94	4.4	4.3
Machinery & transp. equip.	268.47	74.88	193.59	69.2	26.7
Power gener. machinery	6.23	3.67	2.56	1.6	1.3
Other nonelec. machinery	47.76	10.30	37.46	12.3	3.7
Office & telecom. equip.	85.03	36.55	48.48	21.9	13.0
Elec. mach. & apparatus	28.25	9.82	18.43	7.3	3.5
Automotive products	77.61	7.81	69.80	20.0	2.8
Other transp. Equipment	23.59	6.73	16.86	6.1	2.4
Textiles	5.97	4.36	1.61	1.5	1.6
Clothing	0.41	14.72	-14.31	0.1	5.2
Other consumer goods	31.54	28.86	2.68	8.1	10.3
Unspecified products	**12.50**	**5.29**	**7.21**	**3.2**	**1.9**
Total	**388.14**	**280.63**	**107.51**	**100.0**	**100.0**

Source: Adapted from WTO, *International Trade Statistics 1999.*

Table 4: Japan's Merchandise Trade by Major Trading Partner and Product, 1998
(Billions of Dollars)

	United States			EU (15)			East Asia		
	Exp.	Imp.	Bal.	Exp.	Imp.	Bal.	Exp.	Imp.	Bal.
Agricultural products	0.55	17.00	-16.45	0.43	5.19	-4.76	1.89	8.46	-6.57
Mining products	0.87	2.33	-1.46	0.35	0.99	-0.64	3.34	4.00	-0.66
Manufactures	113.99	46.75	67.24	68.90	32.20	36.70	75.77	47.54	28.23
Semi-manufactures	13.91	9.00	4.91	8.14	10.13	-1.99	19.76	7.74	12.02
Machinery and transport equipment	89.58	28.76	60.82	52.59	13.54	39.05	44.72	16.98	27.74
Textiles, clothing, and other consumer goods	10.50	8.99	1.51	8.17	8.53	-0.36	11.29	22.82	-11.53
Total	**119.85**	**67.48**	**52.37**	**71.69**	**39.09**	**32.60**	**83.65**	**61.13**	**22.52**

	Rest of World			World		
	Exp.	Imp.	Bal.	Exp.	Imp.	Bal.
Agricultural products	1.22	25.94	-24.72	4.09	56.59	-52.50
Mining products	1.43	52.70	-51.27	5.99	60.02	-54.03
Manufactures	106.90	32.24	74.66	365.56	158.73	206.83
Semi-manufactures	17.36	9.04	8.32	59.17	35.91	23.26
Machinery and transport equipment	81.58	15.60	65.98	268.47	74.88	193.59
Textiles, clothing, and other consumer goods	7.96	7.60	0.36	37.92	47.94	-10.02
Total	**112.95**	**112.93**	**0.02**	**388.14**	**280.63**	**107.51**

Source: Adapted from WTO, *International Trade Statistics 1999.*

Table 5: U.S. and Japanese Trade in Commercial Services, 1998
(Billions of Dollars and Percent)

	United States				Japan			
	Exports		Imports		Exports		Imports	
	Value	Percent	Value	Percent	Value	Percent	Value	Percent
Total commercial services	**240.0**	**100.0**	**165.8**	**100.0**	**61.8**	**100.0**	**110.7**	**100.0**
Transportation	45.5	19.0	50.3	30.3	21.3	34.4	28.4	25.6
Sea transport	4.1	1.7	14.1	8.5	14.2	23.0	19.7	17.8
Air transport	24.5	10.2	23.0	13.9	7.0	11.4	8.6	7.8
Other transport	16.9	7.1	13.2	7.9	0.1	0.0	0.1	0.0
Travel	83.4	34.8	57.8	34.9	3.7	6.1	28.8	26.0
Other commercial services	111.1	46.3	57.8	34.8	36.8	59.1	53.5	48.3
Communication services	3.9	1.6	8.6	5.2	1.2	1.9	1.6	1.4
Construction services	4.1	1.7	0.7	0.4	7.7	12.5	5.5	5.0
Insurance services	2.8	1.2	6.9	4.2	0.0	0.1	2.4	2.1
Financial services	13.7	5.7	3.8	2.3	1.6	2.6	2.2	1.9
Computer and information services	4.0	1.7	0.5	0.3	1.3	2.2	3.5	3.2
Royalties and licence fee	36.8	15.3	11.3	6.8	7.4	12.0	8.9	9.1
Other business services	41.6	17.3	25.9	15.6	17.1	27.6	28.1	25.4
Personal, cultural, and rec. svcs.	4.2	1.7	0.1	0.0	0.4	0.7	1.3	1.1

Source: Adapted from WTO, *International Trade Statistics 1999.*

TABLE 6: U.S. Stock of Foreign Direct Investment and Its Sectoral Distribution at Year-End, 1987, 1992, 1997

	Inward FDI			Outward FDI		
	1987	1992	1997	1987	1992	1997
Agriculture & fishing	**0.5**	**0.3**	**0.3**	**0.2**	**0.1**	**..**
Mining & quarrying	**16.5**	**10.9**	**8.9**	**20.5**	**12.8**	**10.0**
of which: Extraction of petroleum and gas	14.4	8.9	7.0	19.0	11.7	10.0
Manufacturing	**35.6**	**37.5**	**39.2**	**41.9**	**37.1**	**33.5**
of which:						
Food products	5.9	5.7	4.0	4.0	4.2	4.5
Textile and wood activities	3.0	3.6	4.7	2.5	2.8	..
Petroleum, chemical, rubber and plastic products	10.8	13.2	16.2	10.5	14.0	8.5
Metal and mechanical products	4.9	5.7	5.4	10.8	7.4	5.6
Office machinery, computers, radio, TV and communication equipment	4.0	4.1	4.3	3.2	3.2	3.9
Vehicles and other transport equipment	1.1	1.0	2.5	6.0	5.1	4.2
Electricity, gas & water	**..**	**..**	**1.0**	**..**	**0.2**	**..**
Construction	**0.5**	**0.5**	**0.4**	**0.3**	**0.2**	**..**
Trade & repairs	**17.2**	**16.0**	**15.2**	**11.7**	**12.3**	**8.0**
Hotels & restaurants	**0.0**	**2.8**	**1.5**	**..**	**0.3**	**..**
Transport & communication	**0.7**	**0.9**	**1.6**	**0.5**	**1.6**	**..**
of which:						
Land, sea and air transport	0.7	0.6	0.4	0.5	0.7	..
Telecommunications	0.1	0.3	0.8	0.0	0.9	..
Financial activities	**17.0**	**27.4**	**21.8**	**23.6**	**31.7**	**36.6**
of which:						
Monetary institutions	..	6.7	5.4	..	4.9	4.0
Other financial institutions	..	3.1	6.2	..	23.0	..
of which: Financial holding companies	..	1.0	1.1	..	16.5	..
Insurance & activities auxiliary to insurance	..	8.5	10.1	..	3.9	..
Other financial institutions and insurance activities	..	9.8	16.4	..	26.8	32.6
Real estate & business activities	**..**	**0.0**	**6.9**	**..**	**2.1**	**..**
of which: Real estate	..	7.7	5.0	..	0.5	..
Other services	**11.9**	**4.7**	**3.2**	**1.3**	**1.6**	**4.7**
Unallocated	..	..	..	..	..	7.1
TOTAL (Percent)	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
of which:						
PRIMARY	**17.0**	**11.6**	**9.2**	**20.7**	**12.9**	**10.0**
MANUFACTURING	**35.6**	**37.5**	**39.2**	**41.9**	**37.1**	**33.5**
SERVICES	**42.9**	**52.3**	**51.6**	**37.4**	**50.0**	**49.4**
TOTAL (Millions of Dollars)	**263394**	**423130**	**681651**	**314336**	**502063**	**860723**

Source: Adapted from OECD, *International Direct Investment Statistics Yearbook 1998.*

Table 7: Geographic Distribution of Stock of U.S. Foreign Direct Investment Position at Year-End, 1987, 1992, 1997

	Inward FDI			Outward FDI		
	1987	1992	1997	1987	1992	1997
OECD Countries	93.4	94.8	92.4	76.9	75.6	70.9
Africa	0.2	0.2	0.2	1.9	0.9	1.2
Latin America-Caribbean	3.7	3.8	5.0	13.6	15.5	17.1
Near & Middle East	1.9	1.1	1.0	1.3	1.1	1.0
Asian Countries	0.7	1.0	1.3	5.0	6.0	8.1
Other	0.1	-1.0	0.1	1.4	0.9	1.7
Total (Percentage)	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
Total (Millions of Dollars)	**263,394**	**423,130**	**681,651**	**314,336**	**502,063**	**860,723**

Source: Adapted from OECD, *International Direct Investment Statistics Yearbook 1998.*

TABLE 8: Japanese Stock of Foreign Direct Investment and Its Sectoral Distribution at Year-End, 1986, 1990, 1994

	Inward FDI			Outward FDI		
	1986	1990	1994	1986	1990	1994
Agriculture & fishing	**..**	**..**	**..**	**1.2**	**0.7**	**0.7**
Mining & quarrying	**..**	**..**	**..**	**12.7**	**6.1**	**4.4**
of which: Extraction of petroleum and gas	..	..	..	..	..	..
Manufacturing	**70.5**	**63.9**	**55.2**	**25.9**	**27.0**	**27.8**
of which:						
Food products	2.4	1.7	1.7	1.2	1.4	1.6
Textile and wood activities	..	..	..	2.9	1.9	2.2
Petroleum, chemical, rubber and plastic products	34.3	21.9	3.3	..	..	..
Metal and mechanical products	29.1	37.0	30.3	7.5	5.9	5.8
Office machinery, computers, radio, TV and communication equipment	..	..	..	4.4	6.7	6.4
Vehicles and other transport equipment	..	..	..	..	..	..
Electricity, gas & water	**..**	**..**	**..**	**..**	**..**	**..**
Construction	**0.8**	**0.5**	**0.3**	**1.0**	**0.8**	**0.9**
Trade & repairs	**12.6**	**16.0**	**20.2**	**13.4**	**10.5**	**10.7**
Hotels & restaurants	**..**	**..**	**..**	**..**	**..**	**..**
Transport & communication	**1.1**	**1.6**	**1.7**	**..**	**..**	**5.7**
of which:						
Land, sea and air transport	0.6	0.8	0.7	7.3	5.8	5.7
Telecommunications	0.5	0.8	1.0	..	..	..
Financial activities	**2.4**	**3.7**	**7.1**	**16.1**	**21.3**	**18.9**
of which:						
Monetary institutions	..	..	..	..	..	..
Other financial institutions	..	..	..	..	..	..
of which: Financial holding companies	..	..	..	..	..	..
Insurance & activities auxiliary to insurance	..	..	..	..	..	..
Other financial institutions and insurance activities	..	..	..	..	..	..
Real estate & business activities	**..**	**..**	**..**	**..**	**..**	**..**
of which: Real estate	..	..	..	..	..	..
Other services	**12.6**	**14.4**	**15.5**	**17.6**	**28.9**	**29.3**
Unallocated	..	..	..	2.6	1.8	1.6
TOTAL (Percent)	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
of which:						
PRIMARY	**..**	**..**	**..**	**13.9**	**6.8**	**5.0**
MANUFACTURING	**70.5**	**63.9**	**55.2**	**25.9**	**27.0**	**27.8**
SERVICES	**29.5**	**36.1**	**44.8**	**55.4**	**67.2**	**65.5**
TOTAL (Millions of Dollars)	**7338**	**18432**	**34088**	**117406**	**310808**	**463606**

Source: Adapted from OECD, *International Direct Investment Statistics Yearbook 1998.*

Table 9: Geographic Distribution of Stock of Japanese Foreign Direct Investment Position at Year-End, 1986, 1990, 1994

	Inward FDI			Outward FDI		
	1986	1990	1994	1986	1990	1994
OECD Countries	89.3	86.7	86.9	56.5	70.1	70.2
Africa	..	..	0.1	3.5	1.9	1.7
Latin America-Caribbean	..	..	3.3	17.7	12.4	11.3
Near & Middle East	..	..	..	2.8	1.1	1.0
Asian Countries	3.9	2.7	4.0	18.5	13.9	15.3
Other	6.8	10.6	5.7	1.1	0.6	0.5
Total (Percentage)	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
Total (Millions of Dollars)	**7,338**	**18,432**	**34,088**	**106,510**	**311,348**	**463,606**

Source: Adapted from OECD, *International Direct Investment Statistics Yearbook 1998.*

Table 10
WTO Disputes: Consultation Requests
January 1, 1995 to June 22, 2000

Complaints by	Respondents					
	United States	Japan	European Communities[a]	Other Ind. Countries	Developing/ Emerging Economies	Total[b]
United States	–	5	25	6	29	65
Japan	4	–	–	1	2	7
European Communities	18	6	–	3	24	51
Other Industrialized Countries	5	1	7	3	11	27
Developing/Emerging Economies	21	–	18	2	27	68
Total[b]	48	12	50	15	93	218

Notes:
[a]Includes complaints against the European Communities (EC) as well as individual EC member countries.
[b]Totals reflect individual cases involving more than one country requesting consultation with respondent.

Source: World Trade Organization, "Overview of the State-of-play of WTO Disputes," http://www.wto.org./wto/dispute/bulletin.htm, 22 March 2000.

Table 11
U.S. Anti-dumping Investigations, 1980-98

Year	1980 to 1985	86	87	88	89	90	91	92	93	94	95	96	97	98	1980 to 1998
Initiations	218	83	16	42	24	35	66	84	37	51	14	21	15	36	742
Prelim. Det.	156	52	45	35	23	25	43	47	67	46	23	16	16	28	629
Final Det.	107	43	58	17	40	18	28	28	80	31	38	12	15	17	533
Duty Orders	59	26	53	12	24	14	19	16	42	16	24	9	7	9	310
Revocations	37	8	9	0	5	10	7	1	3	28	12	6	4	25	145

Source: WTO (1999b, p. 68).

Table 12
U.S. Countervailing Duty Investigations, 1980-98

Year	1980 to 1985	86	87	88	89	90	91	92	93	94	95	96	97	98	1980 to 1998
Initiations	173	28	8	17	7	7	11	22	5	7	2	1	6	11	305
Prelim. Det.	144	28	10	18	6	4	9	26	1	7	3	0	3	7	266
Final Det.	104	22	20	14	12	4	5	7	20	2	6	2	0	2	220
Duty Orders	65	13	14	7	6	2	2	4	16	1	2	2	0	1	135
Revocations	68	4	2	1	5	4	6	0	1	5	35	1	1	4	137

Source: WTO (1999b, p. 72).