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Japan's Response to the Omnibus Trade Act

*Dr. Dick K. Nanto**

I. INTRODUCTION

Japan's response to the Omnibus Trade and Competitive-ness Act of 1988, (Act) is a singularly appropriate matter for study. Without Japan's trade policies, it is doubtful that the bill would have passed. The increased competition from industries in Japan (and from the "second Japans" in Asia¹) focused public attention on international trade and generated the impetus for the bill.

The Japanese Government and most Japanese businesses seem to have mixed reactions toward the Act. On one hand, they are relieved that the three-year process has come to an end and that the outcome, though not completely satisfactory, is not worse. On the other hand, they look to some of the Act's provisions and fear that they will lead to a new level of protection for American industries. The Japanese Government has expressed its concern that the Act will have a tremendous impact upon Japan-U.S. relations and on multilateral relationships as well, hindering continued world prosperity.² The current strategy of the Japanese Government is to wait and see how the Act is implemented while objecting to those provisions deemed most harmful to its interests. It has threatened to take the United States to the General Agreement on Tariffs and Trade (GATT) if the Act is not administered to their liking.³

* Congressional Research Service, The Library of Congress. Views expressed herein do not necessarily represent those of the Congressional Research Service or The Library of Congress. Appreciation is expressed for assistance in gathering information for this paper to the U.S. Asia Society, the Japanese Embassy; the Japanese Ministries of Foreign Affairs, International Trade and Industry, and Finance; the Forum for a Liberal Society of the Japanese Diet; Keidanren, and Y. Murakami of the Asahi Shimbun.

1. Countries or areas such as South Korea, Taiwan, Hong Kong, and Singapore.

2. Letter from Ambassador Matsungaga to Secretary of State, *et. al.* (Aug. 12, 1988) (discussing effect of Trade Bill).

3. *President's Signing of the Omnibus Trade Bill Poorly Received by Major Trading Partners*, Int'l Trade Rep. (BNA) Current Reports No. 35, at 1208-09 (Aug. 31, 1988).

In many respects, Japan dodged the bullet on the Act. Some of the onerous provisions that had targeted Japan's large trade surplus, such as the Gephardt amendment, were dropped. With the exception of a few sections, in its final form, the Act was generic—not country, industry, or company specific—and tended to refine rather than revolutionize existing trade policy-making procedures.

Japan, however, still expressed grave reservations over three provisions in the Act. The first was the "Super 301," or the Senate alternative to the Gephardt amendment. This section mandates that the U.S. Trade Representative (USTR) identify "priority" unfair trade practices and "priority" foreign trade partners following unfair practices. The USTR must then begin investigations of such practices, negotiate with the foreign country concerning them for up to three years, and retaliate if necessary.

The second concern was that the Toshiba sanctions (prohibiting certain sales in the U.S. market), particularly those against the parent Toshiba Corporation, were exceptionally onerous, possibly unconstitutional, and raised questions of sovereignty.

The third concern was that the changes to Section 337 of the Tariff Act of 1930 which has been used primarily as a remedy against thefts or infringements of U.S. intellectual property rights (particularly patents, trademarks, and copyrights), places foreign firms at a disadvantage. Specifically, the Act no longer requires the complainant to prove injury in most cases. It also shortens the time period, and provides fewer opportunities for counter-arguments by foreign defendants.

II. THE IMPACT OF JAPAN'S SUCCESS ON THE TRADE ACT

Nothing provided more momentum for the proponents of trade reform than economic relations with Japan. The \$50 billion American trade deficit with Japan, the rapid incursions by Japanese exporters into U.S. markets once thought secure, and the startling realization that an increasing number of premier American industries were falling behind in international competition all galvanized trade policy-makers into action.

A. *Change in U.S. Economic Perspectives*

Trade with Japan forced a shift in U.S. trade policy-making and caused changes in two fundamental premises that have un-

derpinned U.S. international economic policy through most of the post-World War II period. The first premise was that U.S. industries were competitive in foreign markets and dominant at home. That is, except for those in the labor-intensive, low-technology areas, the American lead in technology and productivity offset lower wage rates abroad. Furthermore, even if a deficit appeared in the U.S. merchandise trade balance, the services sector would make up the difference to create a surplus on current account. The Act attempts to address the fact that foreign firms, particularly those from Japan, have caught up with and, in some cases, surpassed their American competition technologically, and that U.S. firms must now be able to compete on an equal basis in world trade.

The second fundamental premise had been that free and open markets brought maximum advantage to the nation. Under a free trade regime, it was recognized that some sectors might suffer from import competition or some sectors might need protection for national security reasons. But on the whole, free markets brought maximum economic growth and well-being. This premise held true even if markets in other countries were more closed than American markets. Conventional wisdom maintained that the United States should not erect trade barriers just because other countries maintained them.

The Act, however, incorporated the idea that a unilateral free trade policy can put American industries at a disadvantage if other countries do not reciprocate. In the computer industry, for example, the American consumer might be better off, in the short run, buying Japanese computers. But if import barriers in Japan keep U.S. computer makers from making up for lost market share at home by exporting, then the U.S. computer industry will be unnecessarily weakened in the long run. Without reciprocity, trade becomes a zero sum game for the sector in question. Any gain by imports becomes a loss by domestic industry.⁴ Hence, reciprocal market access, targeted in some provisions of the Act, was not based merely on questions of fairness. Such

4. In the modern world of differentiated products, a significant amount of trade between industrialized countries is within the same product categories. Americans buy Canadian-made cars, while Canadians buy American cars. Europeans buy American telecommunications equipment, but also sell such equipment in the United States. In that case both sides gain from trade, and trade is not a zero sum game. In the classical specialization and exchange model, each country specializes in producing the product in which it has a comparative advantage which also results in a positive sum game.

sectoral reciprocity can be essential to maintain internationally competitive domestic industries. And one of the few policy levers left to force such reciprocity seems to be the threat of cutting off access to the U.S. market.

Many Americans seem to be concluding that some protection, if judiciously applied, is not necessarily bad, particularly if it is in retaliation for recalcitrance in opening markets abroad. A nagging question has always been that if protectionism is so dreadful, why is the protected Japanese economy doing so well?

B. Political Reactions to Japan's Success

With these two premises weakened, Japan (and the new Japans in Asia⁵) became targets in the Act. Section 301 on unfair trading practices would not have been revised were it not for the perception that, "Japan is to unfair trade practices what Babe Ruth is to baseball: the all-time champ; the king of unfair trade practices."⁶ Likewise, other sections of the Act dealing with education and training, research and development, and enforcement of U.S. rights under trade agreements can be traced to concerns about U.S. industrial competitiveness and trading relations with Japan in particular.

Ironically, Japan provided much of the ammunition for the trade debates. Remarks by congressmen and testimony in committee hearings were often loaded with "horror stories" about Japanese trade barriers. Incidents, such as the ban on American metal baseball bats, the sudden changes in standards for imported skis, along with the subsequent justification that Japanese snow was different, or the outlandish price of imported chilled beef, all provided concrete examples of how the Japanese market had been closed. Congress does not legislate on the basis of "horror stories," but even if such issues are subsequently resolved, they foster strong perceptions in the minds of decision-makers and give the impression that in Japan such barriers are the norm rather than the exception. It should be noted that Americans did not blame Japan for all the United States' trade ailments. In the congressional debate on the Act, it was recognized that the bulk of the U.S. trade deficit had been caused by U.S. budget deficits and macroeconomic policies.

5. Countries or areas such as South Korea, Taiwan, Hong Kong, and Singapore.

6. CONG. REC. S8658 (daily ed. June 25, 1987) (statement of Sen. Danforth).

Passage of the Act marked the beginning of a new era for Japanese industrialists. When the Act passed, the golden age of free access to American markets passed with it. Japanese exporters now find that they can no longer slip into markets and establish themselves by exploiting niches which are under-served by major suppliers. Japanese exporters are leading players in U.S. and world markets; they are conspicuous, scrutinized, and imitated. Moreover, Japanese exporters can no longer assume that their flank at home will be protected by their government while they are free to roam through American markets.

III. JAPAN'S SPECIFIC OBJECTIONS TO THE TRADE ACT

While Japan took umbrage at being the target of many provisions of the Act and what they considered to be its general protectionist nature, their greatest concerns centered on three provisions: "Super 301," the Toshiba sanctions, and changes to section 337 of the Tariff Act.

A. *Japan's Objections to "Super 301"*

Japan objects most strenuously to the "super 301" section dealing with unfair trade practices. Under the Act, the USTR must identify both "priority" unfair trade practices (practices, the elimination of which, would lead to the greatest increase in U.S. exports) and "priority" foreign trade partners following such practices. The USTR must then begin investigations of such practices, negotiate with the foreign country for up to three years, and retaliate if necessary.

The very act of listing "unfair foreign trade practices," creates certain political forces. Japan's fear is that although its practices might not be as objectionable as those in other nations, the size of the Japanese economy combined with the market opportunities afforded by the appreciated Yen could provide a sizable potential increase in U.S. exports and invite listing Japan as a "priority" country. Japanese officials fear that such a list inevitably invites political pressures to designate Japan as a priority country. They also fear that the limited staff of the USTR might be insufficient to do a thorough job of compiling the first list, which is due in May, 1989.

From Japan's point of view, the U.S. approach with "Super 301" seems to be to take on the world with a big stick. Officials worry about the negative impact such an approach will have on

the Uruguay round of GATT negotiations. The United States counters Japanese concerns with the argument that Japan has nothing to fear provided that it opens its markets.

"Super 301" hit Japanese exporters where they are vulnerable. They have become so dependent on exports to the United States that any threat of being shut out of that market alarms corporate strategists from Okinawa to Hokkaido. But whether they like it or not, the United States now has an administrative procedure in place to act unilaterally to protect its industries; although, the Administration still has considerable discretion in deciding whether or not to pursue a case or what specific remedies to apply. In the past, Japan could always buy time by stringing out disputes with lengthy negotiations or by forcing the issue to be taken before the GATT. GATT dispute settlement procedures take, on average, nearly four years to complete. Negotiations often have required a similarly long time. Japanese exporters are allowed to move their products during the delay.

The "Super 301" provision raises tensions within Japanese society. Japanese social philosophy espouses the idea that everyone has a right to eat. Hence, certain less-efficient sectors have been tolerated, even protected, because they provide jobs for the less employable or elderly. This is one reason that 4.8 million Japanese still engage in agriculture as their principle means of support and twice as many retail stores exist per capita as in the United States. Agriculture and distribution are the employers of last resort.

Recently, Keidanren (the voice of Japan's industrial sector) has broken with social traditions and has favored liberalization of food products and easing government restrictions on building large stores. It has, however, had limited influence with the Ministry of Agriculture and the agricultural cooperatives. Given "Super 301," however, the threat now is that Japan's industrial exports could be hurt if the United States retaliates against Japanese trade practices such as its agricultural protectionism. The example of the American "chicken war" with Europe, which resulted in a twenty-five percent tariff on pickup trucks (now almost all from Japan), hangs fresh in the Japanese collective memory. After the USTR releases its "priority practices" report, the more efficient Japanese exporters, such as the electronics and automotive industries, could very well side with the United States in working to eliminate unfair agricultural practices in Japan.

"Super 301," combined with the high Yen and years of market-opening concessions by Japan, has convinced many Japanese policy-makers that, in the long run, protecting specific industries in Japan by import restrictions not consonant with international agreements is likely to be futile. One by one, Japan's blatant import barriers are disappearing. The future for Japan is for its markets to open—even to allow limited rice imports. This is the reality Japanese businesses now face. The nature of competition in the Japanese market is changing.

B. Japan's Objections to the Toshiba Sanctions

The second major Japanese concern over the Act centers on the sanctions against the Toshiba and Kongsberg companies. In response to the diversion of high technology machining equipment to the Soviet Union by Toshiba Machine Company of Japan and Kongsberg Trading Company of Norway,⁷ the Act imposed retroactive sanctions on those companies and their parent firms. Toshiba Machine and Kongsberg Trading were barred from exporting goods to the United States for three years and also were prohibited from receiving United States Government procurement contracts. Toshiba Corporation and Kongsberg Vaapenfabrikk, the parent corporations, were prohibited from United States Government procurement for three years except for items that are security-related or for spare parts.

The Toshiba Corporation maintains that the above sanctions violate the United States Constitution's prohibition against bills of attainder and ex post facto legislation and the constitutional guarantee of due process. The sanctions also raise questions of extraterritoriality. Bills of attainder refer to legislative acts which find readily identifiable individuals or entities guilty of wrongdoing and impose hardships upon them for the purpose of punishment without judicial trial. Ex post facto laws are those which punish retroactively (when the act was not punishable at the time it was committed). The due process argument is that

7. The Toshiba Machine/Kongsberg Trading Company diversion of four nine-axis milling machines to a naval propeller production yard in Leningrad in 1983 is thought to have enabled the Soviet Union to produce quiet propellers for submarines in large numbers. Overcoming the military damage caused by this diversion is likely to cost the U.S. Navy billions of dollars over several years. Some of the advantage previously enjoyed by the United States in anti-submarine warfare may never be recovered. See R. AHEARN & O'ROARKE, *TOSHIBA-KONGSBERG TECHNOLOGY DIVERSION: ISSUES FOR CONGRESS* (U.S. Lib. of Cong., Cong. Research Service, Issue Brief No. 1B87184, 1988).

the sanctions condemn the parent Toshiba Corporation for the diversion by Toshiba Machine, its subsidiary, without any evidence of wrongdoing on the parent's part. The extraterritoriality argument is that Toshiba violated Japanese, not U.S., export control laws and that the guilty parties were already punished according to Japanese law. These sanctions are likely to be tested in the U.S. courts.

Toshiba Corporation's argument that it should not be punished because, as the parent company, it was unaware of the infraction by its subsidiary, however, is open to question. Under traditional theories of joint liability, a parent company can be joined as a codefendant in certain cases.

The major point the Japanese pressed was that the Toshiba sanctions punished a company of another country which goes against the principles of the Coordinating Committee on Multilateral Export Controls (COCOM).⁸ The Japanese Government has also taken its case to COCOM, which met in Paris in October, 1988. In Paris, Japan argued that the sanctions violated COCOM rules. Their argument was supported by fourteen countries (also members of COCOM), but was rejected by United States. As a result of the Toshiba sanctions, the Japanese government has strengthened its export control law to stiffen penalties and lengthen the time for the statute of limitations and has also intensified its enforcement efforts.

Japan is likely to continue to pursue its opposition to the sanctions in both the bilateral and multilateral fora. The Toshiba case, however, raised the sensitivity of the Japanese Government and industrialists to security issues. It resulted in tightened enforcement of export controls in Japan. It also strengthened the impression in the United States that Japanese exporters will do anything to turn a profit—even betray an ally. An undesirable side-effect of the incident is that Japanese exporters will be less enthusiastic about diversifying their exports toward communist countries.

C. Intellectual Property Rights: Japan's Objections to the Changes in Section 337 of the Tariff Act

Japan's third major objection to the Act is that the changes to Section 337 of the Tariff Act of 1930 put foreign firms at a

8. *Most COCOM Nations Condemn United States for Sanctions Against Toshiba, Japanese Say*, Int'l Trade Rep. (BNA) No. 44, at 1470-71 (Nov. 9, 1988).

disadvantage. This section has been used primarily as a remedy against thefts or infringements of U.S. intellectual property rights (particularly patents, trademarks, and copyrights). The new law no longer requires the complainant to prove injury in most cases; infringement is injury. Additionally, the new law also shortens the time period for cases, provides fewer opportunities for counter-arguments by foreign defendants, and strengthens procedures for sanctions.

Pursuing a remedy under the former Section 337 provisions was one of the most expensive means of trade relief. The minimum cost for cases averaged about \$310,700 and the maximum, about \$715,000.⁹ These costs should be reduced considerably by eliminating the proof-of-injury provision.

Japan's objection to the new 337 is that it treats an issue involving foreign firms differently from one that involves only American entities. For example, among domestic firms, intellectual property rights cases are resolved in the courts rather than through the U.S. International Trade Commission (ITC). Moreover, Japan contends that dropping the injury test will lower the threshold for complaints to the extent that the ITC will be flooded with cases. Finally, Japan argues that there is now considerable room for harassment directed towards imports.

The Trade Act also provides for the exclusion from the U.S. markets of products produced, processed, or mined by means of the unauthorized use of a process covered by a U.S. patent. The purpose of this provision was to protect emerging U.S. high technology industries, such as those using biotechnology who may manufacture products abroad using genetic engineering or other technology patented in the United States. Importers, therefore, face considerably more risk under this law, since they often do not know whether or not the product they are importing falls under this process patent provision. This may result in a chilling effect on imports and considerably more protection for emerging industries in the U.S..

D. Japan's Objections to Other Provisions of the Trade Act

Japan has also expressed concerns over other provisions in the Act. They see both the reciprocity clause in the telecommunications section, and the provision to bar foreign securities

9. U.S. GEN. ACCOUNTING OFFICE, INTERNATIONAL TRADE, PURSUIT OF TRADE LAW REMEDIES BY SMALL BUSINESS 7 (1988).

firms from being primary dealers in U.S. securities unless U.S. firms are granted similar status, as aimed at Japan. These sections set a precedent that seems out of harmony with the principles of most-favored-nation treatment. In addition, the required investigation into Japan's construction sector strikes the Japanese as unnecessary considering the measures recently taken to open Japan's public works market. Further, the changes to the escape clause, particularly eliminating a recession as a single cause of injury, also concern Japan.

On the other hand, Japan welcomes provisions in the Act that grant negotiating authority for the Uruguay Round of Multilateral Trade Negotiations, adopt the Harmonized Tariff System, mandate use of the metric system in international trade statistics, and enhance the competitiveness of U.S. industries.

IV. JAPAN'S STRATEGY

Now that the Act has become law, the strategy of Japanese business and government seems to be to accept the Act and go on with other matters. Japan continues, however, to monitor measures taken to implement the law and intends to object to any provisions which they feel go counter to their interest. Meanwhile, several tactics and strategies seem to be emerging.

Among Japanese businesses, the current buzzword seems to be diversification in markets, products, and plant location. Much of this diversification stems from the maturation and internationalization of Japanese industry. But spurred on by both the Act and the rapid appreciation of the Yen, Japanese industrialists are seeking new markets for their products.

In 1987-88, Japanese industry found the most obvious market that had been somewhat neglected—their own domestic economy. Increasing domestic demand has more than offset the decline in Japan's trade surplus over the past two years. Exporters, moreover, are looking at the surging imports from the Asian NICs and concluding that they are going to have to pay more attention to domestic markets.

A. *Finding New Markets*

Export diversification is also being directed at Europe and Asia. Exporters are noting the program for economic integration by 1992 of the European Community (EC) and concluding that the resulting EC market, three times the population and twice

the size of Japan's, cannot be ignored. Japanese exports to Asian neighbors, meanwhile, include considerable capital goods that are accompanying Japanese direct investment there. The rise in Japan's surplus on trade in 1988, despite double-digit growth in imports, can be accounted for by growing exports to the EC and Southeast Asia.

B. Developing New Products

A second kind of diversification resulting from the threat of protectionism in the United States and elsewhere has occurred in products. Companies have accelerated product development and realized that the best way to assure access to markets is to sell products that no one else can produce or manufacture in quantity. Japanese manufacturers have held a virtual monopoly for some time in video cassette recorders, compact disk players, digital audio tape recorders, facsimile machines, and quality video games. These products generated millions of dollars in exports, without complaints from U.S. industries, because few competitors even existed. Likewise, the Japanese, are moving to higher value-added production in automobiles, textiles and apparel, and personal computers and continue to race to manufacture the next generation of semiconductor chips.

C. Diversifying Plant Location

A third type of diversification has been in plant location. The day when Japan could be an exclusive export platform for manufacturers has long passed. Japan has rapidly become a high-cost producer. Given its exorbitant costs for land and rising costs for labor, it can no longer compete with other countries of Asia or even the United States in certain manufacturing requiring medium to high level technology. Hourly compensation costs in Japan for production workers averaged \$13.14 in 1988 as compared with \$13.62 in the United States.¹⁰ The calculus of these rising costs combined with the threat of a wall of protection around the United States has provided great incentives for Japanese businesses to establish manufacturing subsidiaries in the American market. By the end of 1988, Japanese firms had direct investments of \$48 billion in the United States. Japanese auto-

10. U.S. BUREAU OF LABOR STATISTICS, INTERNATIONAL COMPARISONS OF HOURLY COMPENSATION COSTS FOR PRODUCTION IN MANUFACTURING, 1988, REP. 766, at 6 (Mar. 1986).

makers will be producing more than a million cars per year in their U.S. production facilities. United States-based Honda, for example, sells more cars in Japan than General Motors or Ford.¹¹ Japanese television makers are also shipping wide-screen sets back to Japan from their American plants.

D. *Diversifying Japanese Business Practices*

Moving away from traditional practices and methods of managing businesses in Japan is another type of diversification. Although not a direct result of the Act, Japanese firms are changing their corporate culture. The extreme focus on winning the market share at the cost of profitability is likely to receive less emphasis. The shift from focusing on market share to profitability reflects the new reality of markets. When producing standardized commodities such as steel, the battle is over shares of existing markets. The new battle, however, is to add value by introducing new products and to do so faster and more often than competitors.¹² Product cycles are shorter, and protectionism is always a threat.

Traditional practices of permanent employment, seniority promotions, salary determination, centralized control, consensual decision-making, early retirement, opposition to takeovers, and high debt leveraging are likely to weaken gradually as Japanese business becomes more internationalized. Financial firms in Tokyo already pirate workers from other companies. Local managers are given more autonomy, and Japanese firms are joining Wall Street in the buy-out game.

Japanese firms also have discovered the profits in "money games." For example, the Toyota Corporation's managers were reportedly astounded in 1987 to find that their financial portfolio, which was being managed by a handful of employees, had generated about as much in profits as the rest of its operations combined. The question asked was why Toyota should shoulder all that risk and responsibility in making cars when the "Toyota bank" can be just as profitable? Given the huge amounts of liquid assets such Japanese companies now have to invest, they are

11. By November 1988, Honda had sold 4,572 of its Ohio-make cars versus 4,303 by General Motors, 3,414 for Ford, and 147 for Chrysler. Kitamatsu, *Japan Developing Global Networks; U.S. Emerging as Key Export Base*, JAPAN ECON. J., Dec. 31, 1988, at 1.

12. *The Name of Japan's New Business Game*, ECONOMIST, Apr. 9, 1988, at 58.

likely to be parking that money in places other than U.S. government securities. Japanese money is likely to play a greater role in U.S. and world financial activities. Where Japanese money goes, however, Japanese control is likely to follow.

V. LONG-TERM EFFECTS OF THE TRADE ACT

The overall damage to the U.S.-Japan relationship caused by the debates over the Act along with the incessant bilateral trade friction has induced policy-makers to try to create alternative means to deal with the trading relationship. Some method needs to be devised to handle trade issues without politicizing them and "going to the top" on every issue. One proposal is for a free-trade area to be negotiated between the two countries along the lines of the Canada-U.S. Free Trade Agreement.¹³ Another possibility is that Japan will try to create an Asian trading bloc with itself at the center to counter the North American and European trading blocs. Such an arrangement would not solve the trade friction problem, but it would give Japan a sphere of influence and increase its bargaining power with North America and Europe.

A. *Japanese Reactions to the Trade Act*

The combined effects of weathering the debate over the Act and simultaneously coping with the appreciated Yen has given Japanese firms and government a new confidence in facing the future. This was manifest by Japan's lobbying and criticism during the debates over the Act. Regardless, the Japanese economy seems to continue to expand. The two oil crises of the 1970s, inflation, world recession, and an appreciating Yen all seem to have come and gone with only minor disruption for Japanese industrialists. Japan is now the largest creditor nation in the world, has a flourishing new wealthy class, and business profits are soaring. Complaints of new Japanese business arrogance abound.¹⁴ Japanese are beginning to demand the respect that wealth commands.

In a sense, the relevant question for Japan is not what to do

13. U.S. INT'L TRADE COMM'N, PROS AND CONS OF INITIATING NEGOTIATIONS WITH JAPAN TO EXPLORE THE POSSIBILITY OF A U.S.-JAPAN FREE TRADE AREA AGREEMENT, (September, 1988) (USITC publication 2120).

14. Nanto, *U.S. Actions Boost Japan's Rising Arrogance*, L.A. Times, Apr. 28, 1987, Part II, at 5.

about the new trade law, but what course to take in the future given the rising resentment in world markets at its success and the tremendous productive power and wealth at its disposal. The appreciation of the Yen since 1985 has doubled nominal wealth in Japan (as measured in U.S. dollars). Scarcely any country in the history of the world has been satisfied with being economically powerful without being equally powerful politically and militarily.

B. Future Impact of Japan's Wealth

Japan must decide how to use its newly generated wealth to improve the well-being of its citizens and increase its voice in world affairs. Japanese businesses must decide how to use their manufacturing capacity, profits, and business prowess to dominate markets in the future and ensure long-term viability. American businesses must decide how to cope with the new competition from Japan in a way that enhances their successes without having to plea for protection. The U.S. Government must determine how to induce Japanese resources to flow into the world infrastructure that has previously been funded primarily by the United States.

Pressuring Japan to increase its defense expenditures has been one tactic used by the U.S. This has been somewhat successful, but may now be reaching some limits, since Japan now spends about as much as the United Kingdom or West Germany on defense. Japan is already the world's largest aid donor, and much of that aid flows back to Japanese businesses. More aid implies stronger Japanese companies. Recent proposals for Japan to play a central role in solving the Third World Debt problem seem promising, since as the world's largest creditor nation it holds the cash that the developing nations are lacking.

VI. CONCLUSION

Whatever the role of the new Japan, the Omnibus Trade and Competitiveness Act of 1988 indicates a type of watershed. If the provisions of the Act are used primarily to protect U.S. industries from foreign competition, Japan is still likely to survive and to grow, and even to become more wealthy, but also to gradually distance itself from the United States. If the Act is used to enhance U.S. industrial competitiveness, alter U.S. macroeconomic policies to reduce reliance on debt, and to open

markets abroad, the U.S. and Japanese economies are likely to grow together, become even more integrated, and enhance each's ability to solve difficult domestic problems. In the next decade, as Japan looks back at the Act, it is likely to conclude that the Act shifted the focus of U.S. policy-making from the debate over changing the law to implementing it. Whether that shift is more protectionistic or not depends primarily on the new Bush Administration and how U.S. industries adjust to international competition.