

**GENERAL AGREEMENT ON  
TARIFFS AND TRADE**

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JAPAN - NULLIFICATION OR IMPAIRMENT OF THE BENEFITS  
ACCRUING TO THE EEC UNDER THE GENERAL AGREEMENT AND IMPEDIMENT  
TO THE ATTAINMENT OF GATT OBJECTIVES

Communication from the European Communities

The following communication, dated 8 April 1983, has been received from the Commission of the European Communities with the request that it be circulated to contracting parties.

Recourse to Article XXIII:2 by the European Community

The European Community wishes to refer to the CONTRACTING PARTIES under Article XXIII:2 the fact that benefits of successive GATT negotiations with Japan have not been realized owing to a series of factors particular to the Japanese economy which have resulted in a lower level of imports, especially of manufactured products, as compared with those of other industrial countries.

Despite the reduction and relaxation of many of the most visible barriers (formal measures, such as tariffs and non-tariff regulations) which are the results of successive GATT negotiations, the evolution of trade between the Community and Japan has become gravely unbalanced, as is also the case between Japan and other contracting parties.

Whereas in the sixties, the bilateral trade balance was broadly in equilibrium, since the beginning of the seventies, a persistent and structural imbalance for the EEC emerged and continued to increase steadily to attain \$12.5 billion in 1981. In making this affirmation, the EEC stresses that its preoccupation is not with the bilateral trade balance per se, but with the fact that it reflects, to say the least, an asymmetrical evolution of the trend.

This evolution is the consequence of the continuing imperviousness of the Japanese market resulting from an inherent tendency to favour domestic products rather than imported goods. At the same time, Japanese exports to the European Community have grown more substantially and rapidly than Japanese imports from the European Community (see Annex I).

There is a serious problem: the difficulty of penetrating the Japanese market. The insufficient degree of access to the Japanese market - compared with the situation in other industrialized countries - is the result of, inter alia, the following adverse overall conditions which have hitherto faced foreign competitors:

- (i) visible, and even more important, certain less visible trade barriers in a number of areas;
- (ii) problems in certain cases because of excessively complicated approval, testing and customs procedures;
- (iii) the marked concentration and interlinking of the structure of production, finance and distribution in Japan, which makes it difficult for foreign suppliers to establish Japanese distribution channels.

This difficulty of penetration cannot be traced to a lack of effort or competitiveness by EC firms: in no other export market do European industries encounter similar difficulties. Apparently other countries, both developed and developing, are also experiencing difficulties in placing their goods, even when competitively priced, on the Japanese market (see Annex II). This situation contrasts with the trend noted in comparable trading partners, such as the United States and the Community.<sup>1</sup> Imports of manufactures in Japan, as a proportion of GDP and per capita, are well below the average for the industrialized countries overall; Japan's trade in manufactures has shown an increasing imbalance in favour of Japan vis-à-vis all groups of trading partners since 1973. The substantial growth of the Japanese economy over the past decade has been marked by a steady increase in Japanese exports, without a parallel evolution in import penetration in any of the main industrial sectors.

By way of background it is recalled that the European Community has discussed this serious matter bilaterally for several years with the Japanese authorities: in 1973 the European Community and the Government of Japan agreed on regular high-level consultations, in which this issue has since then been discussed twice a year. In 1976, in the search for a solution to the deterioration in the trade balance, the two parties agreed on a sectoral approach as an integral part of the high-level consultations, under which the Community would raise with Japan specific questions of

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<sup>1</sup>The evolution of Japan's imports of manufactured goods, in 1960 Japanese imports of manufactures were 2.4 per cent of GNP. In 1981, they were 2.5 per cent. Thus Japanese imports as a percentage of GNP have remained almost unchanged in the past twenty-one years, despite the formal trade liberalization measures by Japan. The comparable figures are estimated as being, in the case of the European Community, 3.3 per cent in 1960 and 5.7 per cent in 1981, and for the United States, 2.0 per cent in 1960 and 5.0 per cent in 1981.

market access for individual sectors or products. These efforts have brought some results, but these have been slow to reach, incomplete in their coverage, inadequately substantial in their commercial impact and therefore not commensurate with the magnitude of the problem.

In consequence, on 25 March 1982, the European Community requested consultations with Japan under GATT Article XXIII:1. Three rounds of consultations were held, on 17-18 May, 9-10 July and 11-12 October 1982, on the basis of written representations made by the European Community on this matter. During these consultations, the European Community submitted specific requests to the Japanese authorities for their attention, including the adoption of a policy objective of increasing their imports, especially manufactured goods and processed foodstuffs, and asked for specific steps to be taken as regards individual measures such as tariffs and fiscal charges, quotas, customs procedures, standards, testing and acceptance procedures.

A series of measures has recently been taken by the Japanese Government in both the tariff and non-tariff field with a view to the opening of the Japanese market; the most recent of these has been the review of standards and certification systems. These are welcome indications that the Japanese authorities are conscious of the problem.

However, while appreciating the positive spirit these measures reflect, the European Community is still of the view, after careful consideration and analysis, that the impact of these measures as a whole is limited and not commensurate with the magnitude of the problem, nor with the expectation of Japan's partners, nor with Japan's international economic responsibilities.

The problem is a general one, the solution to which requires a co-ordinated series of general and specific measures, which go beyond the formal barriers at the border, and which are designed to bring about a definitive and substantial improvement in the present situation. In this context, the European Community reiterates that it is not seeking a fundamental change in the Japanese socio-economic system. It is interested in results: a situation in future where Japan offers equal opportunities of trade expansion to its trading partners, in conformity with the overall objectives of the General Agreement.

The European Community is of the view that the present situation constitutes a nullification or impairment by Japan, of the benefits otherwise accruing to the European Community under the GATT, and an impediment to the attainment of GATT's objectives. In particular the general GATT objective of "reciprocal and mutually advantageous arrangements" has not been achieved.

Consequently, the European Community requests, under the provisions of Article XXIII:2, that the Council establish a working party to examine this matter in the light of the provisions and objectives of the General Agreement, and to report to the Council.

The European Community considers that the objective of Article XXIII is to restore the balance of interests of the contracting parties. The Community is confident that a satisfactory solution to the matter will be found in conformity with both the letter and the spirit of the General Agreement.

ANNEX I

EVOLUTION OF BILATERAL TRADE (EEC (10) - JAPAN)

Year	Imports EEC	Exports EEC	Balance	Cover ratio export/import
1963	0.5	0.5	0	100
1970	1.9	1.4	-0.5	73
1975	6.3	2.8	-3.4	44
1980	18.6	-6.4	-12.2	34
1981	18.9	6.4	-12.5	34

(Exports FOB, imports CAF in \$ billion)

Sources: United Nations, Geneva.  
International Trade in 1981/82. GATT Geneva 1982

ANNEX II

JAPAN'S EXPORT/IMPORT COVER RATIO WITH ITS PRINCIPAL  
PARTNERS FOR MANUFACTURED PRODUCTS

Year	USA	EEC	Industrial Regions	Developing countries (other than petrol exporting countries)	Eastern Bloc countries	Total
1973	261	172	236	448	380	350
1979	314	219	273	489	656	413
1980	311	261	294	615	671	470
1981	359	308	351	615	589	537

Source: International Trade in 1981/82. GATT, Geneva 1982.