

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(87) 344 final

Brussels, 9 July 1987

COMMUNICATION OF THE COMMISSION

ON RELATIONS BETWEEN THE COMMUNITY AND JAPAN

COMMUNICATION OF THE COMMISSION ON RELATIONS BETWEEN THE
COMMUNITY AND JAPAN

1. After a thorough discussion of relations with the Community and Japan, the Council of 16 March 1987 asked the Commission, among other things, to intensify its efforts to improve the conditions of access to the Japanese market faced by European firms and to present a report for its July session on developments in the various fields concerned.
2. The Council was again led to deplore the further worsening of the imbalance of the Community's trade with Japan, which is explained by the lack of a real balance of advantages. It is clear that a main characteristic of our relations with Japan is a continuing trade deficit, although since March its rate of increase has decreased compared to the first three months of 1987. In May there was even a fall of 15.1% in the Japanese surplus (expressed in Yen) relative to the same month in 1986.

It is important to note, however, that Japan's trade with the Community is developing differently from that with its other partners. Japan's total exports over the period January to May 1987 fell by 9.5% (in Yen) and those to the United States by 13.4%, while its exports to the Community rose by 6.2%. Moreover, Japan's total imports fell by 16% and those from the United States by 15.6%, but its imports from the Community increased by 6.8%.

The trends show the Community is acquiring a growing importance in Japan's foreign trade. This is explained both by the massive revaluation of the Yen compared to the dollar, in comparison with its stability relative to the ECU, which makes the Community an increasingly attractive market for Japanese firms, and by the measures that the Americans have taken or threatened to take, which leads the Japanese to be prudent in their relations with the United States. In its contacts at all levels, the Commission has continuously put pressure on the Japanese authorities to implement at last an expansionary economic policy, based on the stimulus of internal demand, and to effectively open the Japanese market to foreign goods and services. At the same time, the initiatives of European companies, despite all the difficulties experienced on the Japanese market, have brought progress in certain sectors that should not be overlooked, even if the efforts are disproportionate to the results that could be expected on the market of a dynamic industrialised country like Japan. In this way, our sales of products, chemicals, machines and cars have advanced to a certain extent.

The development of our trade needs constant analysis to determine whether we are faced by transitory phenomena or if certain long-term changes are emerging. It is also necessary to see whether changing exchange rates lead to a diversion of trade from the United States to Europe, as one would expect.

3. Since the March Council, the Community has taken a certain number of measures:
 - a) The GATT panel on wines and spirits is in the process of completing its work and the results are expected in mid August. We consider that our arguments are sufficiently strong for us to be confident about the results.

- b) to avoid diversion to the Community market of Japanese products affected by the American sanctions, the Council decided on 25 May to adopt the means of imposing additional duties of 100% on deflected exports if the need arises. This measure follows up the Commission's decision to introduce prior surveillance of the three classes of products.
 - c) on 25 May, the Council asked the Commission, in the framework of negotiations under Art. XXIV.6, to propose the binding of duties of the CET in such a way as not further to tilt the balance of advantages in Japan's favour. Negotiations are in progress with the Japanese authorities to obtain better conditions of access for Community products on the Japanese market.
 - d) as for the Japanese-American agreement on semiconductors which increasingly concerns the Community, the GATT has accepted the establishment of a panel on certain aspects of the agreement which we consider in violation of the rules of international trade.
4. The decision of the Japanese government to give a further stimulus to the economy by means of fiscal measures amounting to 6 trillion Yen for public works and to make exceptional government purchases of imports worth 1 billion dollars is a positive step. Nevertheless, it will only affect Community firms in so far as they have positive effects on imports of manufactures and to the extent to which they have a real opportunity of taking part in the works planned and can benefit from the programme of government purchases. Because of disturbing information that reached both it and the Member States, the Commission has warned the Japanese authorities on several occasions that any de facto discrimination to the benefit of American companies would cause a serious deterioration in our relations. On 1 July Mr De Clercq sent a letter in that sense to the Minister for Foreign Affairs, Mr Kuranari.
5. The seminar on Kansai airport for European firms organized in May, was a great success as shown by the large attendance. It refuted the assertion that European companies were not interested in the Japanese market. The Japanese government should now ensure that they are now effectively on an equal footing so far as tenders and contracts are concerned.

The problem of the participation of European firms in major infrastructure projects in Japan has attracted much attention, and will do so in future, for they represent potential new outlets. But here much, possibly everything, will depend on the concrete measures the Japanese government takes really to put into effect its declared objective of opening markets.

6. The sectoral actions called for by the Council in March have been initiated. A full report on the results of discussions on three priority sectors (motor vehicles, medical equipment and cosmetic products) is attached to this Communication.

On the basis of this report, the progress in these talks can be characterised as reasonable but still insufficient. On the one hand, a number of useful clarifications of or adjustments to the implementation of Japanese regulations have been obtained which should assist Community exporters. On the other hand, no undertakings have been made on the Japanese side to revise existing law (with the sole exception of the proposal to change the taxation rules for motor vehicles, which is most

unlikely to be adopted in its present form). Furthermore, a number of important and reasonable Community requests have not been met, and in the case of others the apparently positive attitude of the Japanese authorities has yet to be put to the test.

In these circumstances the Commission would recommend to the Council a waiting position with respect to the three sectors under discussion. The Japanese authorities should be given a period of some months (until, say, 31 December 1987) to implement their recent concessions and to complete the work necessary for further concessions of the same pragmatic kind (for example, on such pending issues as taxation and insurance policies and lighting, noise and braking standards for motor vehicles, the importer's license regime for medical equipment, and extension of the "comprehensive licensing system" in the cosmetics sector). If at the end of that period the Commission cannot detect further substantial progress, it would consider recommending the adoption of a new and broader approach by the Community aimed at achieving a better balance of benefits with Japan which would have appeared impossible to achieve under the existing laws and structures of that country.

Meanwhile market-opening discussions should be pursued by the Community in respect of other sectors, following the same formula of close association between the Commission and industry experts. Even the Japanese side has expressed satisfaction with the down-to-earth and pragmatic character of the discussions that have taken place so far. It is important, however, that the full support of the industries concerned should be assured before opening discussions with the Japanese side. The Commission will submit proposals to the Council concerning possible new areas of discussion with the Japanese side after appropriate consultations with industry.

7. In conclusion, the Commission considers that since March 1987 the Community has acted in a coherent and persistent way towards Japan. The latter is now more conscious of the need to take account of the requests of the Community, a trade partner whose importance is continuously increasing. The Community should continue its efforts in the hope of reversing the development of its structural imbalance of trade with Japan.
8. On the basis of the foregoing, the Commission requests the Council to:
 - take note of this report;
 - with respect to the sectoral discussions on motor vehicles, cosmetic products, and medical equipment, agree:
 - 1) that the Commission will make a progress report before the end of 1987, which should allow time for Japan to take the necessary decisions at political level to satisfy the Community's complementary requests and to implement at the technical level concessions already made.

- 2) in the event of no further significant progress, to consider further action including adoption of a new and broader approach by the Community aimed at achieving a better balance of benefits with Japan;
 - 3) to invite the Commission to prepare for similar discussions on other sectors, after ensuring that the Community industries are prepared to participate actively in the preparation and pursuit of such negotiations.
- ask the experts of Member States to assist the Commission in reviewing the other current dossiers, in the light of the recent High Level Consultations, with a view to further recommendations on how to proceed.

EC(12) External Trade (1983-1986) : World, certain regions and countries (Mio ECU)

13 May 1987

	1983		1984			1985			1986		
	Trade	%	Trade	%	Change %	Trade	%	Change %	Trade	%	Change %
<u>Imports : (CIF)</u>											
World (extra)	341699	100	390639	100	+ 14	406417	100	+ 4	336048	100	- 17
Industr. Countries	170200	49,8	199047	51,0	+ 17	212005	52,2	+ 6	197370	58,7	- 7
- EFTA	65438	19,1	75767	19,4	+ 16	82011	20,2	+ 8	78658	23,4	- 4
- U.S.A.	50654	17,2	67112	17,2	+ 14	68942	17,0	+ 3	56643	16,8	- 18
- Japan	21940	6,4	25668	6,6	+ 17	28586	7,0	+ 11	33215	9,9	+ 16
ASEAN	8178	2,4	10029	2,6	+ 23	10377	2,6	+ 3	9108	2,7	- 12
Devel. Countries	138610	40,6	151769	38,8	+ 9	155945	38,4	+ 3	108728	32,3	- 30
- ACP	21281	6,2	27749	7,1	+ 30	30310	7,5	+ 9	19575	5,8	- 35
State trad. Countries	32889	9,6	39823	10,2	+ 21	30468	9,5	- 3	30269	9,0	- 21
- China	2768	0,8	3323	0,8	+ 20	3936	1,0	+ 18	4223	1,3	+ 7
<u>Exports : (FOB)</u>											
World (extra)	300621	100	350859	100	+ 17	378650	100	+ 8	341428	100	- 10
Industr. Countries	152420	50,7	192898	55,0	+ 27	217944	57,6	+ 13	206715	60,5	- 5
- EFTA	66258	22,0	76381	21,8	+ 15	84771	22,4	+ 11	87191	25,5	+ 3
- U.S.A.	52202	17,4	73701	21,0	+ 41	85523	22,6	+ 16	75151	22,0	- 12
- Japan	7710	2,6	9364	2,7	+ 21	10475	2,8	+ 12	11399	3,3	+ 9
ASEAN	9405	3,1	9914	2,8	+ 5	9916	2,6	0	8217	2,4	- 17
Devel. Countries	123593	41,1	131136	37,4	+ 6	128913	34,0	- 2	107602	31,5	- 16
- ACP	16826	5,6	18069	5,1	+ 7	19336	5,1	+ 7	16049	4,7	- 17
State trad. Countries	24608	8,2	26825	7,6	+ 9	31794	8,4	+ 18	27617	8,0	- 13
- China	2096	1,0	3765	1,1	+ 30	7180	1,9	+ 91	6533	1,9	- 9
<u>Balance :</u>											
World (extra)	- 41070		- 39780			- 27767			+ 5380		
Industr. Countries	- 17780		- 6149			+ 5939			+ 9345		
- EFTA	+ 820		+ 614			+ 2760			+ 8533		
- U.S.A.	- 6452		+ 6589			+ 16581			+ 18508		
- Japan	- 14229		- 16304			- 18111			- 21816		
ASEAN	+ 1227		- 115			- 461			- 091		
Devel. Countries	- 15017		- 20633			- 27032			- 1126		
- ACP	- 4455		- 9681			- 10974			- 3526		
State trad. Countries	- 8281		- 12990			- 6674			- 2652		
- China	+ 128		+ 442			+ 3244			+ 2310		

26.06.1987

Japan's trade with World, EC(12), U.S.A.

- in bio yen -

	1984	Share %	1985	Share %	Change %	1986	Share %	Change %	1987 * (Jan.-May)	Share %	Change %
<u>Exports (FOB) to :</u>											
World	40.325,3	100	41.955,7	100	+ 4,0	35.289,7	100	- 15,9	13.432,9	100	- 9,5
EC (12)	4.758,4	11,8	4.952,5	11,8	+ 4,1	5.173,7	14,7	+ 4,5	2.312,2	17,2	+ 6,2
U.S.A.	14.221,2	35,3	15.582,7	37,1	+ 9,6	13.563,7	38,4	- 13,0	4.851,5	36,1	- 13,4
<u>Imports (CIF) from :</u>											
World	32.321,1	100	31.084,9	100	- 3,8	21.550,7	100	- 30,7	8.415,6	100	- 16,0
EC (12)	2.326,3	7,2	2.223,7	7,2	- 4,4	2.348,3	10,9	+ 5,6	963,6	11,4	+ 6,8
U.S.A.)	6.363,6	19,7	6.213,4	20,0	- 2,4	4.917,8	22,8	- 20,9	1.767,6	21,0	- 15,6
<u>Trade Balance with :</u>											
World	+8.004,2		+ 10.870,8		+ 35,8	+ 13.739,0		+ 26,4	+ 5.017,8		+ 4,2
EC (12)	+2.432,1		+ 2.728,8		+ 12,2	+ 2.825,4		+ 3,5	+ 1.348,6		+ 5,8
U.S.A.	+7.857,6		+ 9.369,3		+ 19,2	+ 8.645,9		- 7,7	+ 3.083,9		- 12,1

* Provisional

Source : Japan Ministry of Finance

Commission Report to Council on sectoral market-opening discussions with Japan (motor vehicles, medical equipment, and cosmetic products), February-June 1987

I Introduction

1. At its meeting of 27 October 1986 the Council approved the Commission's intention to pursue market-opening talks with the Japanese Government, and the European Council at its meeting of 5-6 December asked the Commission to identify sectors for which these talks should take place.
2. At the EC-Japan Ministerial Conference held in Brussels on 11 December it was agreed between the Commission and the three Japanese Ministers present that talks on the motor vehicle and medical equipment sectors should proceed in early 1987 with a view to reaching conclusions before the end of July.
3. At its meeting of 16 March 1987 the Council asked the Commission to intensify its efforts to improve access to the Japanese market, and to present additional files to the Japanese authorities in respect of dairy products, cosmetics, and counterfeiting. The Council asked for a report on the action undertaken by the Commission for its July meeting.
4. The present report contains the Commission's evaluation of discussions with the Japanese authorities on three of the sectors concerned. A first round, in February 1987, was concerned with motor vehicles and medical equipment; during the second, in June 1987, cosmetic products were also discussed for the first time.

II Negotiating method

5. For each of these negotiations the Commission prepared a request list to the Japanese authorities, which was drawn up in consultation with representatives of European industry both in Europe and Japan as well as of the Member States. The Commission delegation was accompanied by expert representatives from industry in the case of the talks on motor vehicles (in February and June) and cosmetic products (in June). The Commission considers that the involvement of these industry experts was a necessary condition for progress in what were highly technical discussions, and would like to express its gratitude to the experts themselves for their assistance and to the Japanese authorities for accepting this form of dialogue.

6. The negotiations were held directly between the Commission and the Ministries responsible for the policy area concerned, that is, with the Ministry of Health and Welfare in the case of medical equipment and cosmetics and with the Ministry of Transport, the Ministry of Finance and the Ministry of Home Affairs in the case of motor vehicles, the last two Ministries being responsible for related taxation and insurance matters. The Ministry of Foreign Affairs chaired a concluding inter-ministerial meeting at the end of each negotiating round.

III Assessment of progress achieved

7. The response of the Japanese authorities to each of the Community's requests, together with a comment on the progress achieved, is indicated in the Summary of Conclusions in the annex to this report. (It should be noted that these summaries have been jointly agreed with the Japanese side, and therefore represent a fairly objective account of the talks). The comments on progress made in the Summaries show some nuances, particularly with respect to the positive or partly-positive replies from the Japanese. Many positive assessments are qualified by the fact that changes are to be discretionary or have yet to be implemented. This element of uncertainty as to the final effects of apparent changes of position on the Japanese side has influenced the Commission's thinking as to the overall outcome of the talks and the question of how, if at all, to pursue them.
8. Each of the sectors will be examined in turn through an assessment of the outcome of discussions and suggestions for further action by the Community.

MOTOR VEHICLES

a) Outcome

9. The Community's requests concerning motor vehicles which were accepted in whole or in part fall into three categories. Firstly, there were questions relating to inspection procedures for imported motor vehicles. These were given a high priority by European industry, and the qualified acceptance by the Japanese side of the Community's request to simplify these procedures is of considerable importance, provided that the commitments made during the talks are in fact implemented. Secondly, on standards issues a number of relatively minor European standards were accepted as equivalent to Japanese and certain testing or data requirements specific to Japan were removed. Although these concessions represented solid progress, a number of the Community's more important requests for acceptance of European standards as equivalent to Japanese were rejected. Finally, agreement in principle was reached concerning the transmission of vehicle registration data to foreign manufacturers. This left a number of important questions pending or unresolved.

-II

10. Among the most significant were those relating to the removal of discriminatory tax and insurance treatment for imported cars which have had the effect of artificially reducing the market for them in Japan. While there may now be some hope of change as regards insurance policies (but without a specific timetable), the situation regarding taxation has become highly uncertain following the obstruction of the Japanese Government's tax reform package in the Diet. Although the Japanese administration has made proposals which would meet the Community's concerns, it seems unlikely that the taxation issue will be satisfactorily resolved in the next year or two unless the Japanese side takes a new approach.
11. Another set of unresolved issues concerns technical standards for such major points as lights, vehicle noise, heat warning systems and braking. The Japanese view has been that further study and further work in international standards bodies will be needed before differences between Japanese and European standards can be resolved, and that in the interim it would be unacceptable to allow vehicles in conformity with EEC or ECE standards to circulate in Japan. The Community side remains unconvinced that this would entail a real safety risk; some European standards such as those for lighting and braking are judged to be more demanding on producers and safer for the public than those applied in Japan.

b) Suggested further action

12. Where the Japanese side has made concessions which have yet to be implemented, such as on inspection procedures or some standards question, some months may be necessary in order to judge the effect of these measures in the market place. In a number of respects, however, the Commission believes that the Japanese side should be pressed to go further than it has done in easing conditions of access for imported motor vehicles. The most important remaining problems can be reduced to the following three categories :
 - taxation;
 - removal of unnecessary barriers;
 - recognition of European standards.
13. Of these, the taxation issue is of greatest importance and urgency in the Commission's view because of the potential effect of any change in the present system on the Japanese consumer. While EC car exports to Japan are growing quickly, the present arbitrary tax categories inhibit even higher rates of growth. If the Government's proposals for revision of the present Commodity Tax on motor-vehicles are blocked because of difficulties with the entire tax reform package, it should attempt to "decouple" the issue from the package by, for example, changing the existing tax categories and removing the criteria of vehicle width as a determinant of tax liability.

2.2

14. In terms of removal of unnecessary barriers, the most important issues are the heat warning device requirement and the two additional vehicle noise standards applied in Japan. Further technical discussion will be needed with EC industry to prepare a case, but the Commission is not convinced of the technical justifications offered by the Japanese for these measures. As far as recognition of standards is concerned, the key issue is that of brakes, although other Japanese standards relating to lights and speedometer adjustment also contribute to increasing European manufacturers' costs if they wish to sell in Japan. There was little evidence on the Japanese side of a genuine willingness to solve any of these problems in the short to medium term, however, and it is unlikely that further technical talks can lead to positive results without political pressure.

MEDICAL EQUIPMENT

a) Outcome

15. Owing to the fact that the Community delegation did not contain industrial experts for these talks it is less easy to come to a clear conclusion concerning the quality of progress made. A number of apparently positive replies from the Japanese side such as, for instance, the affirmation that JIS standards for medical equipment are generally in conformity with international standards, or the indicative list of equipment for which additional clinical tests are needed, have had to be taken on trust subject to further consultation of European industry. To this extent the present assessment is a preliminary one.
16. With this reserve, the positive features of the discussion on medical equipment were the apparent commitment on the Japanese side to align JIS standards with international standards (ISO and IEC) and to accept tests based on such international standards as relevant information for the approval procedure when JIS standards have not been established. Most electrical safety tests for medical equipment can be carried out by the manufacturers, without third party testing. In addition, some clarification was obtained concerning the categories of "sensitive" medical equipment for which additional Japanese clinical test data was required.

17. However, there was little progress on issues which were considered as equally important by the Community. Thus the Japanese side was not prepared to shorten the maximum time periods for approval of medical equipment (up to one year for new technology) which are felt to be much longer than the corresponding periods in European countries, although efforts would be made to approve equipment in less than the maximum time period "where possible". Similarly, because of the role of government as the guarantor of public safety in Japan, the Japanese side could not accept to abandon its licensing system for importers of medical equipment, which has led in the past to a multiplicity of bureaucratic delays, but suggested instead various ways in which these delays might be reduced. A third major issue, relating to delays in setting appropriate reimbursement levels for technologically-advanced equipment, also remained unsettled pending the outcome of a new consultation procedure between the Japanese Government and equipment manufacturers.

b) Suggested further action

18. The value of the Japanese concessions in respect of standards and acceptance of test data for medical equipment are impossible to judge without further consultation of industry experts. If it emerges that there are still significant differences between Japanese (JIS) standards and those of ISO and IEC, the Commission would propose that expert discussions be held soon with the Japanese side with a view to further harmonisation of Japanese standards.
19. The other major issues in this dossier, delays in approval procedures and the importers license system, appear to stem from specific Japanese administrative or legal structures, namely, the lack of sufficient qualified manpower in the responsible Ministry to handle approval applications expeditiously, and the direct responsibility of the Government for ensuring the safety of products, with a corresponding absence of a system of product liability. A frontal assault on these structural problems is unlikely to yield rapid results. The Commission would suggest that the Community continue to look for pragmatic solutions to these issues which would minimise the effects of these structural problems rather than to remove them altogether. The discussions so far have already offered some progress in the right direction; it is now a question of seeing whether these pragmatic measures are put into effect and developed.

COSMETIC PRODUCTS

a) Outcome

20. The positive results of the discussion on cosmetic products were, above all, concerned with clarification of the present Japanese regulations, which are much more complex than those of Japan's major trading partners. Thus the Community side was assured that all ingredients not mentioned on a relatively short list of prohibited ingredients could, in principle, be submitted to the authorities for approval (i.e. that there was no unofficial list of ingredients which were "not recommended for use"). Similarly, with reference to the approval of ingredients not yet incorporated into cosmetic

products, a high priority for Community industry, MOHW officials informed the delegation of an unofficial procedure for obtaining advice from the Ministry on the use of particular ingredients which should give some satisfaction to Community industry. A number of other Community requests (concerning labelling of ingredients, acceptance of preclinical test data and traces) were resolved by explanations of the detailed provisions of Japanese regulations.

21. It is noteworthy, however, that all the Community's requests which implied changing Japanese regulations for cosmetic products, or even the work plan for carrying out the so-called Action Programme, were turned down by the Japanese side. This was particularly the case in respect of the requests for improvement and extension of the Comprehensive Licensing System, which still represents in the Community's view a rigid and bureaucratic approach to regulation of this sector. The basic response of the Japanese side was that, while sympathetic to the Community's requests, the Ministry simply did not have enough staff to do any more than implement the Action Programme. While not putting into question the good faith of the Japanese officials concerned, the Commission can only conclude that the principles of the Action Programme ("freedom in principle; restriction as exception") are still far from being realised in this sector.

b) Suggested future action

22. The Community has chosen to follow a low-key approach with respect to changing Japanese cosmetics legislation; rather than trying to reform the entire regulatory system, it has tried to accelerate the gradual introduction of flexibility into the system laid down in Action Programme. The recent discussions have shown up the limitations of such an approach; because of the labour-intensive regulatory approach adopted by Japan, the changes to the system under the Action Programme are also labour-intensive, and further work to meet additional requests becomes impossible without additional resources. In the Commission's view, Japan should be pressed to choose one of two options; either it must give Ministries such as MOHW the resources to complete more quickly the reform of traditional regulatory structures, or the structures themselves must be made less labour-intensive. Failure to do either will merely exacerbate the frustration of foreign exporters.
23. The request for additional resources is, however, a political not a technical one. In the Commission's view, therefore, there would be no purpose in pursuing technical-level discussions for the time being.

IV CONCLUDING REMARKS

24. On the basis of the foregoing, the progress in these talks can be characterised as reasonable but still insufficient. On the one hand, a number of useful clarifications of or adjustments to the implementation of Japanese regulations have been obtained which should assist Community exporters. On the other hand, no undertakings have been made on the Japanese side to revise existing law (with the sole exception of the proposal to change the taxation rules for motor vehicles, which is most unlikely to be adopted in its present form). Furthermore, a number of important and reasonable Community requests have not been met, and in the case of others the apparently positive attitude of the Japanese authorities has yet to be put to the test.
25. In these circumstances the Commission would recommend to the Council a waiting position with respect to the three sectors under discussion. The Japanese authorities should be given a period of some months to implement their recent concessions and to complete the work necessary for further concessions of the same pragmatic kind (for example, on such pending issues as taxation and insurance policies and lighting, noise and braking standards for motor vehicles, the importer's license régime for medical equipment, and extension of the "comprehensive licensing system" in the cosmetics sector). If at the end of that period the Commission cannot detect further substantial progress, it would recommend the adoption of a new and broader approach by the Community aimed at achieving a better balance, which would have appeared impossible to achieve under the existing laws and structures of that country.
26. Meanwhile market-opening discussions should be pursued by the Community in respect of other sectors, following the same formula of close association between the Commission and industry experts. Even the Japanese side has expressed satisfaction with the down-to-earth and pragmatic character of the discussions that have taken place so far. It is important, however, that the full support of the industries concerned should be assured before opening discussions with the Japanese side. The Commission will submit proposals to the Council concerning possible new areas of discussion with the Japanese side after appropriate consultations with industry.