Integrated Strategy, Trade Policy, and Global Competition

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An integrated strategy captures the synergies between competitive strategies that seek superior performance in the marketplace and nonmarket strategies that shape the competitive environment. For many companies, the rules of market competition are crucial to their performance, and they explicitly participate in the process of shaping those rules. Nonmarket strategies are the link between the interests of a company and those rules. The synergies between market and nonmarket strategies are at the heart of an effective integrated strategy. In choosing among strategy alternatives, it is necessary to assess both their consequences in the marketplace and their incentives for the nonmarket strategies that shape the competitive environment and hence competitive opportunity.

This article extends the conceptual and analytical foundations of integrated strategy to a competitive environment structured by international trade policy.[1] It presents an analytic framework illustrated by the current international trade dispute between Eastman Kodak and Fuji Photo Film, which was initiated by Kodak's filing of a market-opening petition under Section 301 of U.S. trade law. The trade dispute centers on whether practices in the distribution system for consumer photographic film and paper impede Kodak's exports to Japan and whether those practices are contrary to Japanese law and international trade agreements. The intent of Kodak's nonmarket strategy is to position and advance this issue in the U.S. trade agenda. This is an important case not because it illustrates a course that other companies are likely to follow but instead because it demonstrates how market and nonmarket strategies can be integrated in a unified framework.

The focus here is not on the actions of the Japanese and U.S. governments but rather on the strategies of the companies—particularly Kodak, which initiated and advanced the trade issue as a component of a broader integrated strategy for the Japanese market and its global competition with Fujifilm. The analysis is based on detailed submissions by Kodak and Fujifilm and on discussions with Kodak executives and their attorneys. It is not, however, about how Kodak chose its strategy or which strategy it should have chosen. Instead, the analysis is intended to illustrate an approach—one that can be applied in other strategic situations—to reasoning about strategy in an environment in which both market and nonmarket strategies are important.[2]

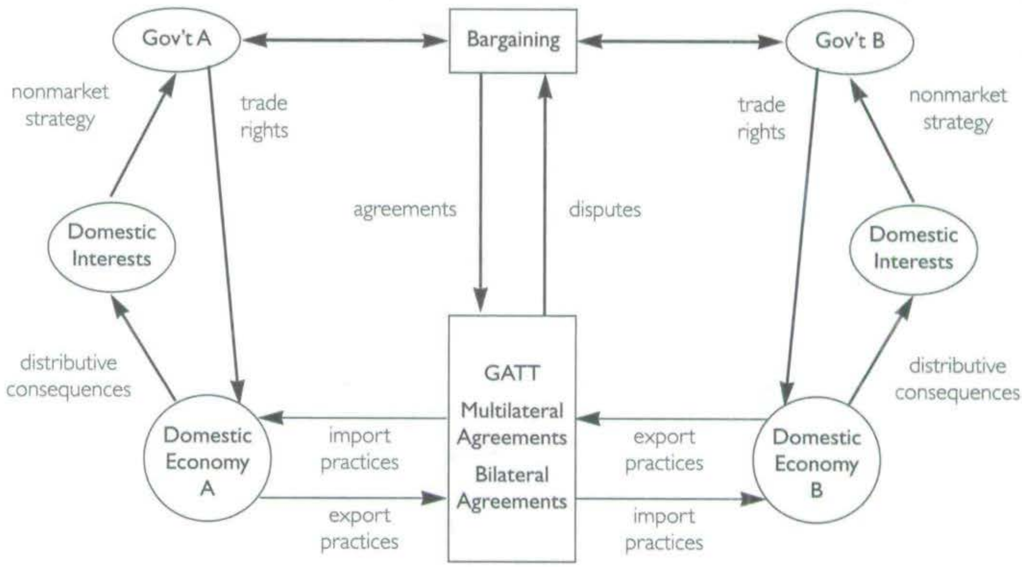
A Unified Framework for Integrated Strategy

The environment of business consists of two interrelated components. The market environment includes activities that are governed by markets or private agreements. "The nonmarket environment is characterized by the social, political, and legal arrangements that structure interactions outside of, but in conjunction with, markets and private agreements. The nonmarket environment encompasses those interactions that are intermediated by public institutions."[3]

An integrated strategy consists of market and nonmarket components that generate synergies and superior overall performance. "A market strategy is a concerted pattern of actions taken in the market environment to create value by improving economic performance. . . . A nonmarket strategy is a concerted pattern of actions taken in the nonmarket environment to create value by improving overall performance, . . . For a business strategy to be effective these two components must be integrated and tailored to the firm's market and nonmarket environments, as well as to [the firm's] competencies."[4] The nonmarket environment is to an important degree nation-specific, i.e., it depends on the institutions and culture of individual countries as well as on the organization of interests in the countries. Nonmarket strategies, in contrast to market strategies, thus tend to be less global and more multidomestic, that is, tailored to the specific issues, institutions, and interests in a country.

An effective strategy is the product of a strategy system that consists of conceptual frameworks, core strategies, policies, and action plans.[5] Conceptual frameworks help managers organize their reasoning about the firm's environment and the factors affecting its performance. In the context of the Kodak-Fujifilm case, one such conceptual framework is bargaining theory, which provides a structure for reasoning about the outcomes of international trade disputes as a function of the resolve of the participants and their stakes in the dispute. Core strategies are the approaches the firm takes to nonmarket issues, such as in its interactions with government and the public, and they include the exercise of rights established by international trade policy. Policies provide managers with guidance in dealing with specific issues. Action plans are the specific actions taken in implementing a strategy, such as Kodak's lobbying and public advocacy program intended to advance its side of the trade issue.

FIGURE 1. International Trade Policy Framework



Strategic alternatives must be generated and evaluated. This evaluation is facilitated by conceptual frameworks that help organize environmental factors and other characteristics of the strategic situation. For example, international trade policy is important from a strategic perspective because it affects the competitive environment. Trade policy should be thought of as endogenous not only to the strategies of nations, but also to the strategies of firms. In many instances, trade issues and disputes are generated by individual firms or industries, and the subsequent negotiations are influenced by their strategies—particularly their nonmarket strategies. A conceptual framework for strategic situations involving international trade policy is presented in Figure 1. It shows that policies reached in negotiations among nations are the result of bargaining influenced by domestic interests—such as business, organized labor, and supplier and consumer interest groups—with stakes in the issue.[6]

Since interests affect the bargaining positions of nations, a framework for understanding interest groups and their effectiveness is needed. The theory of distributive politics, which applies to situations in which the distribution of benefits and costs motivates nonmarket strategies of the affected interests, provides the needed framework. In the context of distributive politics, two useful concepts for strategy formulation are the *rent chain* and *coalition formation*.[7] A rent is a surplus above the opportunity cost of resources and represents the stake of a firm or interest group. The pursuit and protection of rents provide incentives for strategy choice. Coalitions form around alternatives that can increase or decrease rents. For example, the firms in a company's supply and distribution systems—its rent chain—have aligned interests on issues affecting the demand for the company's products. Fujifilm's rent chain is threatened by Kodak's integrated strategy. The alignment of interests along a rent chain or among firms in an industry provides the opportunity to form a coalition to support a strategy. In the example, Kodak has no coalition partners for its specific issue, although other firms would also benefit from structural changes in the Japanese distribution system.

An analytical framework is a model for reasoning about an issue or a strategic situation. Analytical frameworks provide the step from conceptual frameworks that organize the information relevant for the evaluation of strategies to the specific evaluation of alternatives. Industrial organization economics provides the basic analytical tools for the analysis of competitive or market alternatives.[8] An analytical framework for the evaluation of nonmarket strategy in situations involving international trade policy is presented below and consists of models of market and nonmarket competition and bargaining among governments. This framework facilitates reasoning about the effects on performance of changes in market and nonmarket strategies and exogenous characteristics of the strategic situation.

The components of this unified framework for integrated strategy may be summarized as follows:

- a conception of the environment of business in terms of two interrelated components—market and nonmarket
- a characterization of the market and nonmarket environments in terms of strategy-relevant factors
- conceptual frameworks that bring together the characterization of the external environment and the internal capabilities of the firm as a basis for strategy formulation
- a strategy system that identifies synergies between the market and nonmarket components of an integrated strategy
- analytical frameworks for reasoning about strategic situations and evaluating integrated strategy alternatives
- approaches to the effective implementation of integrated strategies
- empirical evaluation of the effectiveness of integrated strategies

Market and Nonmarket Strategies

The strategic management literature focuses on developing and sustaining competitive advantage as a means of achieving superior performance. One focus of competitive strategy is on addressing threats to the competitive advantage of firms—threats from current rivals, new entrants and substitutes, and the bargaining power of suppliers and customers. The emphasis on threats gives too little attention, however, to competitive opportunity. Opportunity is often controlled by nonmarket forces, and thus nonmarket strategies often focus on unlocking competitive opportunity. This is particularly evident in the context of international trade policy pertaining to market opening. The trade dispute initiated by Kodak is intended to open further the Japanese consumer film and photographic paper markets, which Kodak alleges are effectively blocked by Fujifilm's control of the distribution system.

As with a market strategy, the objective of a nonmarket strategy is superior performance achieved by creating and sustaining competitive opportunity and advantage, creating an environment favorable to improved performance for the firm and the industries in which it participates, and addressing specific nonmarket issues in an effective manner. Each of these is illustrated by Kodak's strategy. Kodak seeks to improve its position in global competition by enhancing its market competitiveness in Japan through broader access to the distribution system. This would have the additional benefit of weakening Fujifilm's profit sanctuary. Strategies directed at improving the market environment focus on unlocking the Japanese distribution system for film, and potentially other products, and thus stimulating broader competition. Strategies pertaining to the resolution of a specific nonmarket issue are illustrated by Kodak's efforts to gain attention for this issue in the context of the U.S. political environment.

The return from a market strategy is direct through the revenues and costs it generates. A nonmarket strategy, however, does not directly generate revenue. Instead, its return is derived from the enhanced return it generates through a market strategy. Since the return to a nonmarket strategy results from its impact on the performance of the firm in the markets in which it operates, the interrelationship between market and nonmarket strategies is the focal point for the integration of the two components of strategy. Integration can be addressed at three levels. The first level is that of the overall configuration of the business, e.g., the determination of the firm's lines of business, the boundaries of the firm (what it does and what it has others do for it), internal organization, governance and incentive systems, and standards of conduct based on ethical principles and conceptions of responsibility.

The second level is where a firm's strategy competes directly against the strategies of other firms. It is this level at which the integration of market and nonmarket strategies is most productively considered. Kodak and Fujifilm are engaged in global competition. They sell branded products throughout the world in head-to-head market competition, and their entire organizations are committed to the contest. The two companies are also engaged in head-to-head competition in the nonmarket environments in the United States and Japan. In such situations, the effectiveness of a strategy is determined in relation to the strategies of its competitors and by the characteristics of the market and nonmarket environments. That is, the effectiveness of an integrated strategy is determined in an equilibrium in its market and nonmarket environments.[9]

The third level at which strategies can be integrated is that of functions—e.g., finance, production, and marketing—and it is here that integration often consists of coordination. An example of a functional strategy is Kodak's strengthening its organization in Japan by acquiring, as it has recently done, the remainder of its joint venture distribution company. Another example is the advertising and promotional campaign Kodak is developing for the 1998 Winter Olympics in Nagano, Japan. The returns to this campaign will be greater the more effective is its organization in Japan.

The Strategic Situation and the Control of Opportunity

The subsequent analysis will largely adopt Kodak's perspective, but not because Kodak is "right" and Fujifilm "wrong." Indeed, Kodak has made a number of strategic mistakes in Japan that account in part for its current situation.[10] Instead, Kodak's perspective will be adopted because Kodak is the initiator of the trade action and has formulated an integrated strategy for addressing what it views as impediments to its penetration of the Japanese market. Although the focus is on the Japanese market, Kodak views that market as crucial to its global competition with Fujifilm.

In consumer photographic film, Kodak and Fujifilm dominate their home markets and have comparable market shares in the rest of the world. The market shares in Japan, the United States, and the rest of the world are presented in Table 1.

TABLE 1. Market Shares in Global Competition

	Market Shares, %		
	Japan	**United States**	**Rest of World**
Kodak	8	70	36
Fujifilm	70	12	33

NB: Konica has the second largest share in Japan.

The Japanese market is attractive not only because of its size—$10 billion in annual sales—but also because it is potentially quite profitable given the exchange rate changes in the 1990s. In 1990, the exchange rate averaged 145 yen to the dollar, and when Kodak formally initiated the trade dispute in May 1995, the exchange rate was 80.

As indicated above, the greater the control of opportunity by government, the more likely nonmarket strategies are to be needed. This is clear in the case of government in the role of customer or regulator; but in this case, Kodak alleges that its problem is that the government tolerates a system of private anticompetitive practices and long-term relationships that restrict market access and competition. More specifically, Kodak alleges that Fujifilm controls the primary distribution system for consumer photographic film through a set of practices (e.g., rebates, the control of deposits) and by long-term relationships that foreclose much of the Japanese market to Kodak. This is exacerbated by the associations of retailers and wholesalers that police non-price promotions under the Premium's Law.

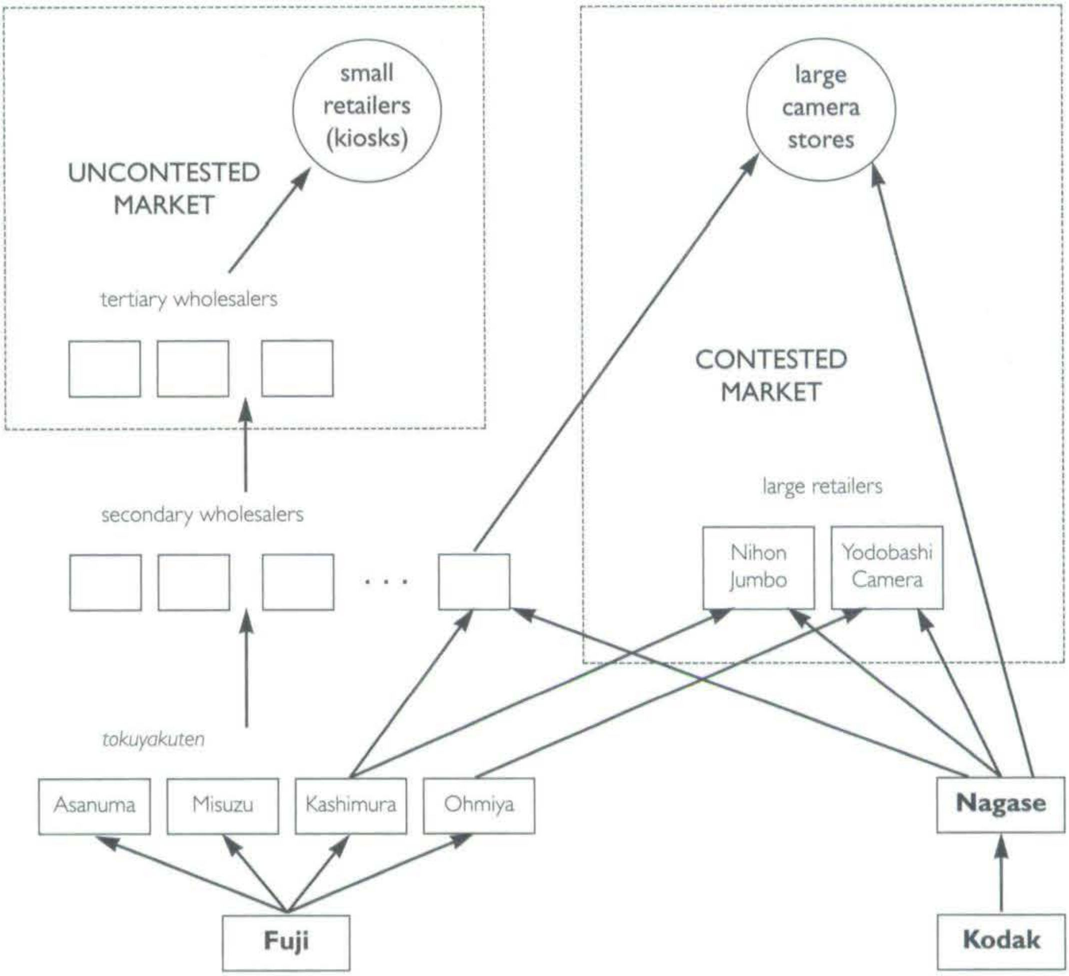
The control of opportunity by government and interests is one side of the coin. The other side of the coin is the profits that incumbent firms garner due to this control. Fujifilm is believed to earn over 90% of its profits in Japan. Kodak CEO George Fisher refers to this as Fujifilm's profit sanctuary and argues that Fujifilm uses its profit sanctuary to subsidize its pursuit of global market share.[11] Mr. Fisher stated, "While Fuji competes with Kodak on a global basis, it makes virtually all of its profits in Japan, using those proceeds to finance low-price sales outside Japan."[12] He also stated, "The Japan market, a large percentage, maybe 70%, is closed to us. And as a result, Fuji is allowed to have a profit sanctuary and amass a great deal of money, which they use to buy market share in Europe and in the United States."[13] This profit sanctuary is particularly important from Kodak's perspective because of the introduction of digital imaging technology in consumer photography, which requires considerable capital.[14]

Kodak argues that a number of factors make it extremely difficult to gain greater access to the Japanese market. These factors center on the distribution system for film, which Kodak maintains is an essential facility for reaching the 280,000 retail outlets that sell film in Japan.[15] Kodak film is sold in approximately 15% of the retail outlets, which account for approximately 30% of film sales in Japan. Kodak's sales are primarily in the large metropolitan areas, where it uses its Nagase sales force to supply large retailers and some secondary wholesalers. This segment of the market is *contested* by the two firms, and prices are low and competition fierce. In smaller towns and in areas served by small retailers in the large metropolitan areas, Kodak film is generally not available and prices are high and stable over time. This is the *uncontested* segment of the market.

Kodak argues that it is unable to access the uncontested segment because Fujifilm controls the distribution system through its dominance of the four primary wholesalers, referred to as *tokuyakuten*, which carry only Fuji brand film. These are independent companies, but Fujifilm is said to have effective control over them through long-term relationships, shareholdings, the use of rebates, the control of deposits, and the implicit threat of being cut-off from 40 to 80% of their revenues. Fujifilm and the *tokuyakuten* are said to influence secondary and tertiary wholesalers and retailers through the use of rebates and allowances that discourage them from carrying Kodak film. This effective control of the distribution system gives Fujifilm control over the supply of film to small retailers, according to Kodak.

A simplified characterization of the distribution system is presented in Figure 2. On the left is the primary distribution system, allegedly controlled by Fujifilm. This multi-tiered system involves the supply of large retailers, such as Nihon Jumbo and Yodobashi Camera, directly by the *tokuyakuten*. Smaller retailers and camera shops are supplied by secondary and tertiary wholesalers. These small retailers account for more than half the sales of film in Japan with the

FIGURE 2. The Japanese Film Distribution System



kiosks at railroad stations alone believed to account for approximately 10% of film sales.[16] It is this portion of the market that is uncontested by Kodak.

As illustrated on the right side of Figure 2, Kodak has its own distribution system operated through its Nagase unit, which supplies some secondary wholesalers and directly supplies large retailers in the contested market.[17] Given its small market share, developing a wholly owned distribution system extending to the small retailers would be prohibitively expensive, so Kodak would like to use the existing system of independent wholesalers and distributors. Kodak and Nagase, however, have been unable to induce many secondary wholesalers to distribute its film to small retailers, and the *tokuyakuten* refuse to carry any film other than Fuji.[18]

In addition to Fujifilm's control of the distribution system, the Premiums Law gives associations of retailers and wholesalers a role in the policing of promotions, which Kodak alleges impedes non-price competition.[19] Kodak also argues that antitrust enforcement by the Japan Fair Trade Commission (JFTC) of the Anti-Monopoly Law (AML) is ineffective and tolerates market control by Fujifilm.

Finally, Kodak's opportunities are to some extent limited by consumer preferences. As Fujifilm indicates, there is a home country market advantage; if all other things were equal, consumers would still prefer Fuji brand film.

The Japanese distribution system has been a concern of firms in a number of industries and thus has been the subject of trade negotiations. Those negotiations have addressed antitrust issues similar to those of concern to Kodak. As a result of the Structural Impediments Initiative, Japan adopted several measures to strengthen its antitrust policies and enforcement activities. One such measure was the promulgation in 1991 by the JFTC of Anti-Monopoly Act Guidelines Concerning Distribution Systems and Business Practices. As a result of his analysis of the 1991 Guidelines, however, Richards concludes that "the nature of the Japanese legal system and the Japanese market place will prevent the new measures from making significant changes in the Japanese marketplace. Furthermore, it is highly questionable whether stricter antitrust enforcement measures, in general, will do anything to significantly change the Japanese marketplace."[20]

The Strategic Challenge

Kodak's strategic challenge is to gain broader access to the Japanese market. What is required is an integrated strategy with a market component directed at improving its competitiveness in the segment of the market it contests and a nonmarket strategy directed at increasing the size of the contested segment. For market strategies, this includes decisions about products, quality, price, promotion, innovation, market selection, and organization. Its nonmarket strategy is directed at unlocking opportunities, structuring the rules of competition, and weakening its competitor. The principal challenge then is choosing a nonmarket strategy to increase its opportunities in Japan and integrating that strategy with its market strategy.

Given Kodak's assessment of the situation in Japan, what are its market and nonmarket alternatives for gaining greater access to the Japanese market? In the U.S. market, Kodak bids for shelf space and location, and in some cases exclusive supply arrangements, directly with large retailers, which account for a high share of film sales. Such a strategy is less attractive in Japan because there are fewer retail chains, they have fewer stores, and they cannot afford not to carry Fuji brand film because consumers prefer it. Those chains are growing, however, and Kodak supplies many of them in the large metropolitan areas.

Kodak could also use price discounts to gain share. It already discounts prices to large retailers, and its film sells at a discount relative to Fuji film. When it has attempted to use steep price discounts to move its film through the distributions system to small retailers, it found that the discounts were not passed on to consumers because, Kodak alleges, the wholesalers and retailers feared retaliation by Fujifilm.

As part of its market strategy, Kodak could also increase its expenditures on promotion and advertising to generate consumer demand. The return from such a strategy is believed to be low, however, because of Kodak's limited shelf space.[21] In addition, the associations of wholesalers and retailers that police nonprice competition are alleged by Kodak to limit the effectiveness of promotions. Kodak could invest in the perceived quality of its products through new product introductions in addition to advertising, but Fujifilm will continue to have a home country advantage in the marketplace because consumers are accustomed to purchasing Fuji film.[22]

Kodak could also expand its own distribution system to reach the currently uncontested market, but as indicated above, it would be far less costly if its film were distributed through the *tokuyakuten* and the secondary and tertiary wholesalers. The former president of Kodak Japan played golf for three years with the president of Asanuma, but was unable to interest him in a relationship with Kodak.[23] Frustrated in its attempts to use market strategies to expand its access to the retail market, Kodak turned to a nonmarket strategy.

The nonmarket strategy alternatives available to Kodak to increase its access to the Japanese market involve government and international institutions. Fujifilm and the Japanese government argue that if Kodak has concerns about the practices in the film distribution system it should take those concerns to the JFTC.[24] Kodak, however, believes that the JFTC is part of the problem it faces, and hence cannot be part of the solution. Based on JFTC data, Kodak reports that 98% of the enforcement activity by the JFTC involves infractions of the Premiums Law and only 2% involves infractions of the AML.[25] The filing of a private antitrust lawsuit is also unlikely to be fruitful. Citing a JFTC study, Kodak reports that from 1955 to 1991 only fifteen private antitrust suits were filed in Japan and none was successful.[26] Kodak could also file an antitrust lawsuit in the United States, but not only does Japan oppose the extraterritorial application of U.S. antitrust law, but so do the European Union and other countries.

Fujifilm also argues that Kodak could take its concerns to the Japan Office of Trade and Investments, which provides an ombudsman service to mediate market opening disputes. This, however, is an unproven system that would in all likelihood be slow.[27] Fujifilm also argues that Kodak should place its concerns on the agenda of the Japan-U.S. Framework for a New Economic Partnership.[28] Kodak's concern, however, was that with other issues such as automobiles, parts, and insurance on the agenda, little attention would be given to its concerns.

Another alternative was to ask the U.S. government to take the issue to the World Trade Organization (WTO). The problem with this alternative was that GATT and the WTO focus on tariffs and formal barriers and not on market opening measures directed at private arrangements and practices or at the vigor of antitrust enforcement. As Clyde Prestowitz observed, "The problem in the Kodak example is that the WTO has no rules that explicitly deal with market closure caused by cartelistic practices. Thus, if the United States takes the case to the WTO, it may well be rejected as invalid because there are no rules to deal with it."[29] Kodak vice-president Ira Wolf echoed this view, "The WTO doesn't have jurisdiction over competition policy."[30] Moreover, at the time Kodak chose its strategy, the WTO had yet to formalize its dispute resolution procedures, making predictions about the treatment of the issue difficult. In addition, the market opening negotiations on financial services then being conducted under the auspices of the WTO were yielding little, and the United States subsequently withdrew from the negotiations in protest.

Given its assessment of the market and nonmarket alternatives, Kodak chose to use its rights under U.S. trade law to file a Section 301 market opening petition, which allows the imposition of sanctions authorized by the President if the United States Trade Representative (USTR) is unable to reach a satisfactory accord regarding a practice.[31] One explanation for this choice is simply that Kodak CEO George Fisher had previously been CEO of Motorola, and Motorola had successfully used international trade policy and the U.S. government to gain greater access to the Japanese markets for pagers, semiconductors, and cellular telephones and station equipment. Indeed, at Kodak he hired the law firm Dewey Ballantine and managing partner Alan Wolff, who had successfully brought the Section 301 case for the semiconductor industry in the 1980s.[32] In conjunction with Dewey Ballantine, Kodak implemented a similar strategy, consisting of a detailed, 288-page study of the film distribution system in Japan accompanied by nonmarket action as a means of increasing pressure on the USTR and the President.[33] This nonmarket strategy, however, was only one component of a more comprehensive integrated strategy for addressing the Japanese market.

Kodak's Integrated Strategy

The objectives of Kodak's strategy are threefold. The first is to be more competitive in the Japanese market, which is the primary focus of its market strategy. The second is to expand the size of the contested segment of the market by gaining broader access to the distribution system in Japan. The third is to weaken Fujifilm's profit sanctuary.

Kodak's integrated strategy for the Japanese market has four components, the first three of which pertain to its market environment and the fourth to both its market and nonmarket environments. The four components of the strategy are:

- maintain product leadership through innovation
- leverage its brand name[34]
- build a more effective organization in Japan[35]
- gain greater market access

The nonmarket strategy of filing a Section 301 petition is the key to gaining greater market access, but Kodak also hopes to pry open the distribution system by inducing one of the *tokuyakuten* to distribute its products. This could occur as a result of a trade accord or as a result of Kodak's demonstrated commitment to increasing its share of the Japanese market.

Kodak's nonmarket strategy to gain greater market access also involves pressuring the U.S. government to give attention to the issue. Filing the Section 301 petition, coupled with a well-designed political strategy, effectively forced the issue onto the U.S. trade agenda. Kodak chose to put its full political weight behind the petition. As Alan Wolff characterized the approach, "In a large trade case, the interaction of legislative activity, litigation and public policy making in the executive branch can provide the solution. It's absolutely necessary to lobby."[36]

Kodak's nonmarket strategy thus had two principal components. The first involved the exercise of its rights under U.S. trade law to file a Section 301 petition. Kodak sought to frame this issue as involving illegal activities and position it as an issue between countries rather than between companies. This was intended to place responsibility on the Clinton Administration. Kodak's objective was not to have sanctions imposed. Mr. Fisher stated, "As we have said from the beginning, all we are seeking is the opportunity to compete in an open market. We want resolution, not retaliation. Nor do we want market share targets."[37]

The second component of Kodak's nonmarket strategy involved generating pressure on the U.S. government to give its case high priority. Filing a Section 301 petition does this to some extent because it forces a decision by the USTR and the President. But more is involved in applying pressure. Generating pressure involves lobbying and the enlistment of allies in other institutions of government, particularly in Congress, to put the USTR on notice that it will be the subject of congressional inquiry if it were to fail on this issue. Mr. Fisher and Mr. Wolff lobbied in Congress and obtained letters of support from then Senator Dole, House Speaker Gingrich, and House Minority Leader Gephardt. Kodak's allies in the House held hearings in March 1996 to put pressure on the USTR and the Clinton Administration just prior to the April meeting between President Clinton and Prime Minister Hashimoto. In addition, 71 members of the House wrote to the President urging him to set a firm deadline for settling the case and to impose sanctions "if the government of Japan refuses to open its market to foreign film." Kodak also enlisted the support of Senators D'Amato, Moynihan, and Roth who wrote to the President urging that negotiations begin promptly.

Kodak's lobbying message focused on U.S. exports, jobs, and open markets. Kodak claims that it has lost $5.6 billion in sales and 10,000 jobs over the past decade. An important instrument in the lobbying and public advocacy strategy was the Dewey Ballantine study of the Japanese consumer film and photographic paper industry.

Kodak's lobbying was supported by its efforts to generate public attention for the issue so that the government would at the least have to explain why it did not achieve a satisfactory resolution of the dispute. Kodak officials held press conferences, made themselves available for interviews, and gave speeches on the issue. The public advocacy strategy of Kodak was so successful that *The New York Times*, in an editorial entitled "Tokyo's Trade Hypocrisy," stated, "The upshot is that Kodak's sales are limited despite the high quality of its products. Japanese officials blatantly violated bilateral commerce accords, international trade accords and Japan's own antitrust laws to keep Fuji atop the market."[38]

To continue the pressure prior to the meeting between President Clinton and Prime Minister Hashimoto, Kodak launched a grassroots campaign. It sent action kits to employees and retirees urging them to write to government officials in Washington, and it established a toll-free number to call for additional information. Mr. Fisher also made public appearances and testified before Congress in an attempt to portray a U.S. failure in this case as a failure of U.S. resolve and hence the end of an era of credible threats of sanctions.

Kodak also took nonmarket action in Japan. It attempted to discuss the matter with MITI, but MITI refused, stating that it had no jurisdiction over issues involving the distribution system. Kodak officials gave media interviews in Japan, and Mr. Fisher visited Japan, gave interviews, and addressed the Keidanren in a conciliatory manner.

Fujifilm countered with its own nonmarket strategy in the United States. One component of its strategy was to address the Section 301 petition through the administrative process used by the USTR. The other principal component was to present its side of the case to the public and the U.S. government. This component was likely to be less effective than Kodak's strategy, since Kodak has a home country nonmarket advantage in the United States. Fujifilm hired a U.S. law firm that produced a 588-page report attacking Kodak's allegations and the accuracy of its data and conclusions.[39] Kodak countered with an extensive study rebutting Fujifilm's claims and presenting new data on film prices in Japan. The studies were not only filed in conjunction with the Section 301 case, but they were also released to the public in news conferences and made available to those interested.

An Analytical Framework

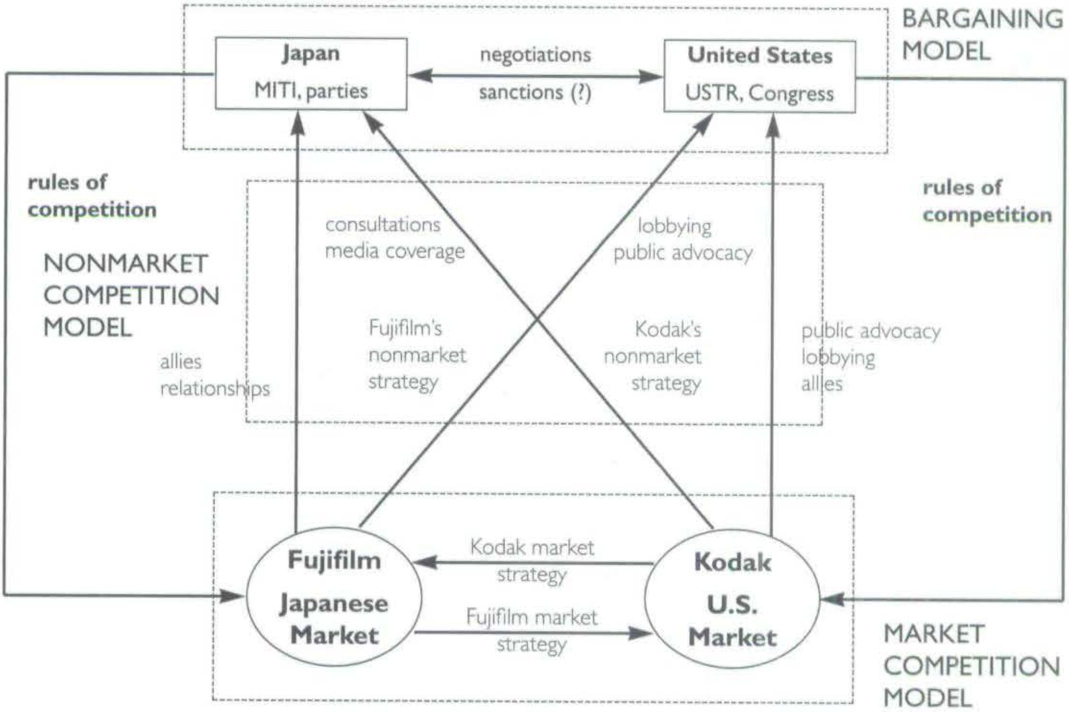
An important characteristic of an international nonmarket issue such as the Kodak-Fujifilm case is that governments in effect represent the interests of their domestic firms. That is, governments can serve as agents of their firms. This, however, is not the standard agency relationship due to four features. First, a government has multiple principals, and those principals may have quite different interests. In the economics literature, this is referred to as common agency with the U.S. government, or the Japanese government, viewed as the agent and Kodak and Fujifilm as principals attempting to influence it.[40] Second, more than one sovereign government is involved, and there is no supreme institution with authority to adjudicate disputes. The WTO is not, at least not yet, such an institution. Third, within a country, multiple institutions are often involved—the USTR, President, and Congress in the United States and MITI, the JFTC, and the governing parties in Japan. This means that there are generally multiple avenues for delivering political and nonmarket pressure. Fourth, private interests have varied but blunt instruments for affecting the behavior of the agent, e.g., Kodak and Fujifilm cannot sign an incentive contract with or compensate the USTR. Instead, the principal instrument is political pressure.

Now, for which firms will a government act as an agent? One obvious answer is those firms that have their headquarters in the country. But with the globalization of companies, the specific location of the headquarters is probably not the right perspective. Instead, it is better to focus on the rent chain, i.e., those who benefit from the activities of the company—employees, shareholders, retirees, suppliers, customers, communities.[41] In this particular case, these two coincide, i.e., both Kodak and Fujifilm have much of their rent chains in their home countries. This gives each firm a nonmarket advantage in its home country. Both companies have operations in the other country, however, so they can also take nonmarket action in an attempt to counter their rival's actions.

Kodak and Fujifilm are thus principals with competing interests that attempt to influence their governments to represent their interests. An analytical framework consistent with this common agency perspective is illustrated in Figure 3, which specializes Figure 1 to the Kodak-Fujifilm case. The lower part of the figure indicates that Kodak and Fujifilm compete in markets, and the upper part indicates that the rules of market competition are shaped by the negotiations between the two countries. Nonmarket strategies are the links between market competition and the negotiations. These strategies are based on the incentives generated in the marketplace and are directed at influencing the importance the United States and Japan attach to this issue. The competition between the two firms thus is not just in the marketplace but also in their nonmarket environments.

To reason about strategy choice in the situation facing Kodak in 1994 and early 1995 as depicted in Figure 3, an analytical framework is required for evaluating market and nonmarket interactions and for evaluating alternative strategies. The framework outlined here makes three contributions to the analysis of strategic situations and the choice of an integrated strategy. First, it provides a basis for tracing the effects of competitive advantage through the economics and politics of a strategic situation in which the nonmarket environment is

FIGURE 3. Market and Nonmarket Strategies and International Trade Policy



important to the control of opportunities. Second, it helps identify synergies between market and nonmarket strategies. Third, it identifies the implications of exogenous factors on competitive advantage and the choices of market and nonmarket strategies.

The framework includes a model of market competition in which the two firms contest a portion of the market and their products have different perceived qualities, the home country market advantage, in the eyes of consumers. The framework also includes a model of the bargaining between the two governments and the sanctions, if any, that might be imposed if no agreement is reached. The framework also explains the incentives to take nonmarket action and allows an evaluation of the synergies between market and nonmarket strategies. For example, what are the incentives for Kodak to make improvements in the perceived quality of its film through expanded advertising, i.e, what effect would such improvements have on the nonmarket strategies of the two firms, the bargaining between the countries, and the subsequent market competition?

The analytical framework consists of the three models identified in Figure 3.[42] In this case, these models pertain only to the market in Japan, since the U.S.

market is largely independent of what takes place in Japan or in the trade negotiations.[43] The first model represents market competition between the two companies and is based on four features of the Japanese market:

- the market has a contested segment and an uncontested segment,
- the size of the contested market depends on the policies and actions of the Japanese government,
- Fujifilm has a perceived quality advantage, which means that Kodak film sells at a discount, and[44]
- Kodak has somewhat lower costs due to exchange rate movements in the first half of the 1990s.

The second model represents the trade negotiations between the two countries. These negotiations depend on the stakes the countries have in this issue as well as the credibility of sanctions they could impose in the event an agreement is not reached. The bargaining between the two countries, if there is to be bargaining, would focus on concessions by Japan such as greater antitrust scrutiny of the practices in the distribution system, including the activities of the associations of retailers and wholesalers that police non-price promotions. Bargaining theory predicts that the concessions in a negotiated settlement are increasing in the U.S. stake in the trade dispute as well as in the importance it attaches to this particular issue. Conversely, the concessions are decreasing in the Japanese stake and the resolve of its government.[45] Concessions are also increasing in the sanctions a country is willing to impose, but this prediction requires that the threat to impose sanctions be credible. After the 1995 automobile accord, a number of observers speculated that a Clinton Administration threat of sanctions was no longer credible.[46]

The third model involves nonmarket competition between the two companies, which focused on the importance each country assigns to the issue in the bargaining. That is, the objective of the U.S. government can be thought of as reflecting its overall trade agenda with Japan, and Kodak sought a higher priority for its issue relative to other trade issues on the U.S. agenda. The political pressure applied by Kodak and its allies was the instrument to achieve a higher priority. This political pressure was generated by its nonmarket actions and served as the link to the bargaining model.[47] As indicated above, there are many instruments, such as lobbying, public advocacy, and grassroots programs, to pressure the USTR and the President.

In their nonmarket competition, each company has a domestic nonmarket advantage in the sense of having a larger rent chain in its home country than does its rival. This means that it can deliver pressure with greater effectiveness than can its foreign rival, so Kodak has a nonmarket advantage in the United States and Fujifilm has a nonmarket advantage in Japan.

To illustrate the application of these models and the importance of an integrated approach to analysis and strategy, consider the market alternative of an investment by Kodak in increasing the perceived quality of its consumer products in Japan through increased advertising and promotion. Simply focusing on the current market share might well indicate that there are limited returns from such an investment, since Kodak's film is available only in the contested segment of the market, and even in that segment it has limited shelf space. Using the three models and focusing on both the market and nonmarket dimensions, however, indicates that the return could be considerably higher.

First, the model of market competition predicts that an increase in the perceived quality of Kodak film would result in improved competitiveness, a higher market share, and greater profits in the contested segment. The second model predicts that the greater profits would increase the U.S. stake in the trade negotiations, which, according to bargaining theory, would make the U.S. government negotiate "harder" resulting in greater expected concessions from Japan. In the model of nonmarket competition, an increase in Kodak's market competitiveness implies that the marginal return to its nonmarket action is higher, leading it to expend more effort in generating pressure. This would result in the United States attaching more importance to the issue, which through the bargaining model would be predicted to result in even greater concessions granted by Japan in the bargaining.[48]

The model thus predicts that an increase in the perceived quality of Kodak film leads to a cascade of market and nonmarket consequences resulting from the synergies between the market and nonmarket components of its integrated strategy. First, an increase in quality makes Kodak more competitive and profitable in the contested market segment. Second, for any given importance the United States attaches to this issue, the higher stakes are predicted to result in greater concessions, giving Kodak the opportunity to contest a larger segment of the market. Third, because its marginal profit is greater the larger is the size of the contested market, Kodak will invest more in its nonmarket actions—that is, generate more pressure—which leads the United States to attach more importance to this issue. This is predicted to increase the concessions even further. The marginal return to quality enhancement thus is determined not from the current contested market but from the larger contested market resulting from harder bargaining and from the greater importance attached to the issue by the U.S. government.

The synergies between market and nonmarket strategies are that the improved market competitiveness increases the marginal return to nonmarket action and the resulting increase in nonmarket action increases the size of the contested market, which increases the return to improved market competitiveness. The causality can also work in the other direction. More effective nonmarket action increases the pressure generated, leading to greater importance attached to the issue. This is predicted to increase the size of the contested market and hence the marginal return to improved market competitiveness. All of these effects have the additional benefit of weakening Fujifilm in its profit sanctuary.

The three models can also be used to analyze the effects of exogenous factors such as changes in exchange rates. The appreciation of the yen during the first half of the 1990s lowered Kodak's costs in Japan, which made it more competitive and more profitable in the contested segment of the market. The cascade effects are that for whatever importance the United States attaches to this issue, it bargains harder since the stake is higher, and hence more concessions are predicted to result. In addition, the marginal return to nonmarket action is higher, so Kodak invests more in its nonmarket strategy. The U.S. government then is under more pressure and attaches greater importance to the issue, which results in even harder bargaining and greater predicted concessions.[49]

Integration and Effectiveness

The concept of an integrated strategy centers on returns to, and synergies between, the market and nonmarket components of a business strategy. The most important synergies identified here are

- the greater incentive to invest in market competitiveness and the development of competitive advantage when the contested market is enlarged as a result of nonmarket action; and
- the greater incentive to invest in nonmarket action when the firm is more competitive in the market place as a result of the enhanced competitive advantage and favorable exogenous forces such as exchange rate movements.

In some cases, a nonmarket strategy may be a necessary condition for an effective market strategy. In Kodak's situation, a nonmarket strategy was not the only means to greater market access in Japan, but it may have been the most efficient, although risky, path to greater market access. Although the implementation of its nonmarket strategy has been costly, the return could be substantial. The Japanese market is huge and increasing its market share to 20% could yield Kodak an additional billion dollars of revenue. Only a modest probability of success is required for the strategy to be attractive.

Even if the trade dispute is not resolved favorably for Kodak, its new found aggressiveness and commitment to greater market penetration in Japan could result in other gains. As indicated above, Kodak would like to entice one of Fujifilm's primary wholesalers to carry its products. Although Kodak had cultivated Asanuma without success, a renewed effort might be successful if one of the primary wholesalers became more confident that Kodak's market share would increase.[50]

From a broader perspective, was the Section 301 petition a good idea? As argued above, this strategy may be warranted from the perspective of profits, but will it tarnish Kodak's reputation in a manner to make it less effective in the Japanese market or in the nonmarket environments in Japan or the United

States? Failure will be an embarrassment in Japan but less so in the United States, but will it have longer-lasting effects? The good news for Kodak is that there is little indication that its actions have hurt the demand for Kodak products in Japan.

Conclusions

Nonmarket strategies are designed to address specific market and nonmarket issues with the objective of structuring the market environment in which a firm operates. The return to a nonmarket strategy is derived from its effects on market performance through the structure of the rules of competition and the incentives created for market strategies. The formulation of market and nonmarket strategies and their integration requires a framework in which the synergies between the two components can be taken into account in a systematic manner. The framework illustrated in Figure 3 is a general perspective on how market and nonmarket strategies interact when governments bargain over the structure of and access to markets. The specific models used to reason about the particular strategic situation have been tailored to the Kodak-Fujifilm case, but the approach to identifying synergies and reasoning about them is more general. In the case considered here, nonmarket action was intended to put the market access issue on the U.S.-Japan trade agenda and to increase the costs to the Clinton Administration of not pursuing the issue aggressively.

However well-integrated and effectively implemented Kodak's strategy has been, the outcome depends importantly on the resolve of the two governments. The Dewey Ballantine study was completed in the spring of 1995 in the midst of tense negotiations between the United States and Japan on access to the automobile and automobile parts markets. In mid-May, President Clinton announced punitive tariffs effective at the end of June and subsequently set a 100% tariff on thirteen Japanese luxury automobile models to go into effect if a satisfactory accord was not reached. In late May, Kodak filed its Section 301 petition to increase the likelihood that its issue would receive attention on the U.S. trade agenda. Since the Clinton Administration was taking an aggressive stance regarding sanctions and pledged not to blink, Kodak might well have believed that the policy of the Administration was to be aggressive regarding market opening. Many observers, however, believed that the Administration blinked at the last moment and accepted a weak accord that was a victory for Japan. The credibility of future U.S. threats of sanctions was then in jeopardy. Japan also had the alternative of taking the issue to the WTO, which at a minimum would delay resolution of the issue.

In June 1996, the USTR found for Kodak in concluding that "Our comprehensive investigation of the Japanese film market has shown that the Government of Japan built, supported, and tolerated a market structure that thwarts foreign competition, and in which exclusionary business practices are commonplace."[51] Even though Japan refused to discuss this issue despite the personal request by President Clinton, the Administration chose not to impose sanctions. Instead, it took the case to the WTO under three separate "requests for consultation." To increase the likelihood that the WTO would accept the case, the Administration positioned it not as a case involving private restrictive practices tolerated by the Japanese government, but instead as one involving laws and specific actions of the Japanese government.[52] The request for consultations is the first stage in the WTO's complex dispute resolution procedures and is intended to promote discussions between the two nations leading to an accord. The discussions did not resolve the issue, and the United States requested the formation of a panel to investigate the complaints.[53] In October 1996 the WTO established a panel under GATT provisions.

Kodak's Section 301 petition may be an important milestone in the course of U.S. and international trade policy. Not only could it mark the end of the era of unilateralism and direct sanctions in trade policy, but the era of bilateralism could also be over, as vice-minister of International Trade and Industry Yoshihiro Sakamoto has declared. That is, countries will go directly to the WTO and companies will less frequently take market-opening action under domestic trade law.[54]

This does not mean that international trade policy will no longer be important to the market and nonmarket strategies of firms. Instead, it means that nonmarket strategies will be directed at influencing the governments of the countries in which the company has located components of its rent chain to position issues strategically in the WTO, i.e., determining when to bring firm-specific issues to the WTO, when to broaden it to cover the range of issues facing an industry such as insurance, and when to address sectoral issues such as financial services and satellite communications. This could mean fewer firm-specific trade disputes and the growth of industry-specific trade issues. It may also mean a decrease in the public advocacy component of nonmarket strategy and an increase in lobbying and the recruitment of allies in Congress and in the executive branch.

Notes

1. David P. Baron, "Integrated Strategy: Market and Nonmarket Components," *California Management Review*, 37/2 (Winter 1995a): 47-65.
2. A number of other cases involving international trade policy and global competition have characteristics analogous to the Kodak-Fujifilm case. These include three sectoral agreements being negotiated under the auspices of the World Trade Organization: financial services, satellite telecommunications, and maritime shipping. The United States and Japan have also been involved in market access negotiations pertaining to insurance, construction, semiconductors, expanded passenger service between the two countries, and the fly-through rights of three U.S. airlines to carry passengers and cargo to Asian destinations via Japan.
3. David P. Baron, *Business and Its Environment*, 2nd ed. (Upper Saddle River, NJ: Prentice Hall, 1996), p. 3.
4. Baron (1995a), op. cit., pp. 47-48.

5. David P. Baron, "The Nonmarket Strategy System," *Sloan Management Review*, 37 (Fall 1995b): 73-85.
6. Figure 1 is adapted from Figure 16-1 of Baron (1996), op. cit.
7. Baron (1995b), op. cit.; Baron (1996), op. cit., Chapter 7.
8. See David Besanko, David Dranove, and Mark Shanley, *Economics of Strategy* (New York, NY: Wiley, 1996); Sharon M. Oster, *Modern Competitive Analysis*, 2nd ed. (Oxford, UK: Oxford University Press, 1994); Michael Porter, *Competitive Strategy* (New York, NY: Free Press, 1980).
9. The term equilibrium is used here not in the sense of stability over time, but rather in terms of a strategy that is best given the strategy of a rival. An equilibrium occurs when neither firm has an incentive to change its strategy given the strategy of the other firm. That is, an equilibrium strategy is a best response to the strategy of the other firm.
10. Abegglen and Stalk state: "The urgent prospect that one of America's leading companies might be outpaced by a once-insignificant Japanese company is the result of Eastman Kodak's delay in responding to Fuji's competitive challenge. Although Eastman Kodak has been in business in Japan for more than sixty-five years, it does not yet have manufacturing or research and development facilities in Japan. Nor does it have control over its sales in Japan. It continues to sell through an agent, maintaining a liaison office with no direct sales force or sales management, and only indirect influence on pricing and promotion." James C. Abegglen and George Stalk, Jr., *Kaisha, The Japanese Corporation* (New York, NY: Basic Books, 1985), p. 240. Kodak initially relied on a single agent Nagase for its distribution, and not until 1984 did Kodak begin to take control of its distributions system when it formed a joint venture that acquired the unit of Nagase that distributed Kodak products. Huddleston states, "One simply has to control the distribution to control one's destiny. This was Kodak's problem. As long as it let Nagase and Kureha be its agents, it had no control over its competitive position in Japan." Kodak argues that it was forced by the Japanese government to use a single distributor. Jackson N. Huddleston, Jr. *Gaijan Kaisha: Running a Foreign Business in Japan* (Armonk, NY: M.E. Sharpe, 1990), p. 218.
11. Motorola Chairman Robert W. Galvin referred to this as the "Principle of Sanctuary." "You cannot allow any competitor to have sanctuary in his or her native market and be allowed to roam in your market in a way that would both cultivate customers and undermine your strengths. Simply put, you must find your way effectively into his native sanctuary. . . . We simply knew we could not leave Japanese competitors the isolation in Japan, while they prospected in our home market. We set about using every commercial and political means of influencing changes in that country." Robert W. Galvin, "International Business and the Changing Nature of Global Competition," Miami University, Oxford, OH, October 1992.
12. *International Trade Reporter*, BNA Inc., June 7, 1995.
13. *Moneyline*, August 2, 1995.
14. The concept of a profit sanctuary requires a protected market that generates super-competitive profits, but for the existence of a profit sanctuary to affect global competition, imperfections in the capital markets or the market for the control of firms are necessary. That is, economic theory predicts that if there are profit opportunities, the capital markets should supply the funds to pursue those opportunities. In this case, there could be capital market imperfections that lead Fujifilm to prefer to finance its activities internally rather than through the capital markets. Possible imperfections include the risk of disclosing strategic information, the transactions costs of selling new securities in the Japanese capital markets, and the potential loss of control through heavy borrowing from banks. Another

possible explanation is that the practice of many Japanese companies is to pay a small dividend and invest the remainder of their profits in growth through the penetration of foreign markets and the development of new products. Fujifilm pays 15% of its profits as dividends and has accumulated nearly $10 billion of cash and marketable investments, although approximately half that amount is the result of the appreciation of the yen.

15. Compared to most developed countries, Japan has a substantially larger number of retailers as well as wholesalers. See David Flath, "Why Are There so Many Retail Stores in Japan," *Japan and the World Economy*, 2 (1990): 365-386.
16. Retail store chains, supermarket chains, and discount houses account for approximately 30% of sales.
17. Konica also has a wholly owned distribution system.
18. According to Fujifilm, relying on Nagase was a strategic mistake: "Kodak's decision to make Nagase its exclusive agent in Japan cut off the *tokuyakuten*—companies specializing in photographic products—from direct dealings with Kodak and, in effect, established Nagase as a competitor to the *tokuyakuten*. When the other film, color paper, and camera companies similarly entered into competition with the *tokuyakuten* by adopting direct distribution, ties with the *tokuyakuten* were severed. Similarly, when the same occurred with Kodak/Nagase, the *tokuyakuten* were pushed out of the Kodak system." Wilkie Farr & Gallagher for Fuji Photo Film Co., Ltd. and Fuji Photo Film U.S.A., Inc., "Rewriting History: Kodak's Revisionist Account of the Japanese Consumer Photographic Market," July 31, 1995, pp. 180-181. (Referred to as Fujifilm, hereafter.)
19. Under Article 10 of the Law Against Unjustifiable Premiums and Misleading Representations, associations of retailers and wholesalers can establish and monitor fair trade codes. These codes are alleged to impede promotional activities.
20. Jonathon D. Richards, "Japan Fair Trade Commission Guidelines Concerning Distribution Systems and Business Practices: An Illustration of Why Antitrust Law Is a Weak Solution to U.S. Trade Problems with Japan," *Wisconsin Law Review* (1993), pp. 921-960.
21. Mr. Walter Stork, president of Agfa-Gevaert Japan, said, "When you have one film maker that is so strong it has 70 per cent of the market, the consumer tends to identify film with that brand. Getting consumers to think of another brand when buying film requires tremendous investment in advertising. However, consumer recognition is only part of the battle. Unless retailers are willing to stock the film so that consumers can buy it, expensive advertising is wasted. . . . As soon as competitors found our products on the shelves, they would come and move it to the corner." *Financial Times*, June 1, 1995.
22. Greg B. Dinovis, Kodak's director of strategic planning for consumer imaging in the Asia Pacific, observed "the biggest challenge we've got [in Japan] is just that . . . the retailers say that the course of least resistance is the familiar green box. It's the same situation we've in the United States in reverse because of our dominant market share there." *The Washington Post*, April 7, 1996.
23. Asanuma is believed to be the wholesaler that is least dependent on Fujifilm, since it is also a major distributor of Nikon products.
24. In the United States, Kodak had been operating under two antitrust consent decrees resulting from cases centering on the exercise of monopoly power. In 1996, against the opposition of the Department of Justice, those consent decrees were lifted by the federal courts as a result of petitions filed by Kodak. The rationale of the courts was that even though Kodak has a 70% market share it would be unable to restrict output and force prices higher because imports would rush in. In the United States, film is largely supplied directly by producers to retailers, and the courts concluded that imported film would quickly reach consumers and

force prices down. In addition, in the United States, film sales and photofinishing are dominated by large retail chains, and film companies bid for supply arrangements with them. For example, in June 1996 Fujifilm outbid Kodak to purchase Wal-Mart's photofinishing laboratories and also won a ten-year exclusive supply contract for its photofinishing supplies. In contrast, film sales in Japan are dominated by small retailers, and Kodak argues that if Fujifilm were to restrict output in an attempt to raise prices in Japan, imports could not rush in because the imported film would not reach the bulk of the retailers. That is, Fujifilm's control of the distribution system is an "essential facility" that would prevent imported film from reaching consumers. To the extent that these arguments are correct, the two markets are quite different from an antitrust perspective.

25. Dewey Ballantine for Eastman Kodak Company, "Privatizing Protection: Japanese Market Barriers in Consumer Photographic Film and Consumer Photographic Paper," Memorandum in Support of a Petition Filed Pursuant to Section 301 of the Trade Act of 1974, As Amended, Rochester, NY, and Washington, D.C., May 1995, p. 227. (Referred to as Kodak, hereafter.)
26. Dewey Ballantine for Eastman Kodak Company, "Japanese Market Barriers in Consumer Photographic Film and Paper," Rochester, NY, and Washington, D.C., November 1995, p. 164. Private parties with a permanent establishment in Japan may file antitrust suits under the AML, but such suits are rare for several reasons. First, no private party has ever won an antitrust suit. Second, for a private antitrust suit to proceed through the courts, the JFTC must find that there has been a probable violation of the AML. Third, the filing fee for antitrust laws is one percent of the claimed damages, which discourages suits. Fourth, discovery is limited in the Japanese legal system, making it difficult for plaintiffs to substantiate charges. Fifth, the Japanese legal system does not provide for class action suits. See Richards, op. cit.
27. Frustrated with the slow progress in opening the Japanese insurance market to foreign firms, in June 1996 the American International Group, Inc. (AIG) filed a complaint with the Ministry of Finance (MOF) complaining about the opaqueness of the insurance rate-setting system. The MOF had proposed to open further the accident and health insurance segments, which were already open and where AIG and other foreign firms are strong.
28. The United States-Japan Framework for a New Economic Partnership was signed by the two countries in 1993 and commits the Japanese government to "address Japanese laws, regulations, administrative practices, and competition policies that impede market access for foreign goods and services."
29. *International Herald Tribune*, April 17, 1996.
30. *Business Week*, May 20, 1996, p. 49.
31. Under Section 301 of U.S. trade law, a determination by the USTR that a foreign act, policy, or practice violates or is inconsistent with a trade agreement or is unjustifiable and burdens or restricts U.S. commerce requires the USTR to take actions to enforce the agreement or to end the objectionable practice. (This provision of U.S. trade law is not incorporated in GATT and the WTO, and most other countries object to its use.) Firms operating in the United States have the right to file a Section 301 petition, and if the USTR agrees to investigate the charges, it must render a decision within a year. During that period consultations with the other country are requested. If no satisfactory resolution is attained, sanctions may be imposed by the president. The United States is not restricted in the nature of the sanctions nor in their target.
32. Mr. Wolff is the subject of an article by Ben Wildavsky, "Wolff at the Door," *National Journal*, August 5, 1995, pp. 1994-1997.
33. Kodak, op. cit.

34. Kodak began selling private label and co-branded film in Japan as a part of this component.
35. For example, Kodak built a new distribution center in Japan and acquired the remainder of its Nagase joint venture. Kodak also strengthened its nonmarket capabilities by hiring Ira Wolf, a former assistant USTR, as vice-president for government affairs in Japan.
36. *National Law Journal*, 1987.
37. Eastman Kodak Company press release, July 27, 1995.
38. *The New York Times*, June 21, 1995. The editorial also stated, "To be fair, Fuji has not had the opportunity to respond fully to the charges. But Kodak's case will be tough to refute."
39. Fujifilm, op. cit.
40. In the common agency model, the principals—Kodak and Fujifilm—work to influence the common agent—a government—to respond to their interests. This competition is primarily conducted in the nonmarket environment. See Gene M. Grossman and Elhanan Helpman, "Trade Wars and Trade Talks," *Journal of Political Economy*, 103 (1995): 675-708.
41. This perspective is somewhat different from that of Ohmae who envisions a future of stateless companies. Kenichi Ohmae, *Beyond National Borders* (Homewood, IL: Dow Jones-Irwin, 1987); Kenichi Ohmae, *The End of the Nation State* (New York, NY: Free Press, 1995). The perspective here is that countries will represent not companies but instead the rents of their citizens, and when those rents are associated with the activities of a firm, the country in effect represents that firm.
42. The mathematical details of this framework and the models are presented in David P. Baron, "Integrated Strategy and International Trade Disputes: The Kodak-Fujifilm Case," *Journal of Economics & Market Strategy* (forthcoming, 1997).
43. Fujifilm's competitive position in the United States is primarily dictated by exchange rates and its cost structure. The appreciation of the yen substantially increased Fujifilm's costs of supplying the U.S. market, and this limits the extent to which it can, for example, discount prices. In 1993, Kodak filed an anti-dumping petition against Fujifilm and Konica for allegedly dumping photographic paper, and the case was resolved when the two Japanese companies agreed to raise their prices. Fujifilm then built a photographic paper plant in the United States as part of a broader strategy of localizing production. Fujifilm's ability to discount its film is similarly limited. In 1996, Fujifilm announced plans to ship bulk consumer color film from its plant in the Netherlands to the United States, where it will be cut and packaged.
44. The market model represents differentiated goods competition and is a variant of the model presented in Jean Tirole, *The Theory of Industrial Organization* (Cambridge, MA: MIT Press, 1988), pp. 296-298.
45. For an introduction to the Nash bargaining model, see Roger B. Myerson, *Game Theory* (Cambridge, MA: Harvard University Press, 1991), pp. 375-380.
46. See, for example, *Business Week*, June 24, 1996, p. 55.
47. The model of nonmarket competition is based on the theory of common agency. See B. Douglas Bernheim and Michael D. Whinston, "Menu Auctions, Resource Allocation, and Economic Influence," *Quarterly Journal of Economics*, 101 (February 1986): 1-31; Gene M. Grossman and Elhanan Helpman, "Protection for Sale," *American Economic Review*, 84 (1994): 833-850.
48. The same type of analysis can be conducted for Fujifilm's strategy alternatives.
49. The appreciation of the dollar against the yen during the second half of 1995 had effects in the opposite direction.
50. In 1995, Kodak was successful in having an independent photographic paper wholesaler agree to carry Kodak paper.

51. Acting USTR Charlene Barshefsky, USTR Press Release, June 13, 1996.
52. The three market access barriers cited were restrictions on foreign investment in the 1970s that led to the current distribution system, the Large Scale Retail Store Law that limits the growth of large retailers, and the Premiums Law and its impact on the use of promotions to increase market share.
53. In preparation for the request for a panel and at the request of the U.S. government, in August 1996 Kodak filed an antitrust complaint in Japan with the JFTC.
54. Antidumping and countervailing duty cases will continue to be filed, since they are, and have been since its inception, included in GATT. The Uruguay round, however, requires that the administrative procedures used by countries be harmonized.