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# How the U.S. Auto Industry Can Increase Its Market Access in Japan

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## Abstract

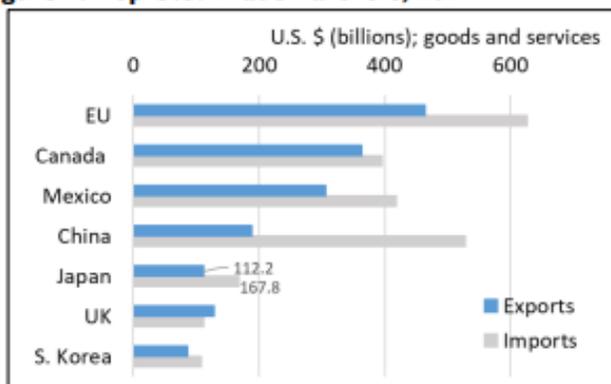
Since the 1970s, American administrations have negotiated market share for US auto producers, with little success. Today, Japan claims around 40 per cent of the US auto market, yet Japan remains one of the most protected and closed auto market in the industrialized world. Although Japan has zero per cent tariff duties on auto imports, an array of non-tariff barriers (NTBs) protect its domestic automakers from international competition. In addition to NTBs, societal and business cultural differences stand in the way of US auto access in Japan. This working paper addresses these issues and provides potential solutions as to how the US can use its comparative advantage to enter the Japanese auto market in a way that would benefit both countries. First, the US should launch negotiations to eliminate Japanese NTBs to American auto imports. Second, the US should leverage this negotiate with a targeted agreement streamlining American auto parts for electric vehicles (EVs) to Japan. Japan, although an innovator of hybrid vehicles in the 2010s, has lagged in the development of domestically made EVs. The US, a world leader in EV, could provide an avenue to help develop Japan's EV infrastructure. Both countries could use this value creating strategy to help resolve a decades long trade dispute and form a joint competitive advantage.

The views and findings expressed here are those of the authors and do not necessarily reflect those of the Middlebury Institute of International Studies or any officials of the Institute.

## Introduction

The Trans-Pacific Partnership (TPP) was the central piece of legislation of Barack Obama’s economic pivot towards Asia.<sup>1</sup> The agreement was an attempt to unify an estimated forty percent of the world’s Gross Domestic Product (GDP) under one free trade deal.<sup>2</sup> However, in 2017 newly-elected President Donald Trump followed through with his promise to withdraw the United States from the TPP on his first day in office.<sup>3</sup> One of President Trump’s main criticisms of the TPP was that the deal put the United States at an economic disadvantage with its closest trading partners, one of which being Japan the fourth-largest trading partner of the United States.<sup>4</sup> President Trump asserted that he could negotiate a better deal with Japan, and in 2019 the two countries began talks to launching new bilateral trade negotiations.<sup>5</sup>

**Figure 1. Top U.S. Trade Partners, 2021**



Source: CRS with data from Bureau of Economic Analysis (BEA).

**Fig. 1.** Top U.S. Trade Partners, 2021, Cimino-Isaacs, Cathleen D., and Brock R. Williams. “U.S.-Japan Trade Agreement Negotiations - Congress,” 2022. <https://crsreports.congress.gov/product/pdf/IF/IF11120>.

The United States and Japan did agree on two new free trade deals: the U.S.-Japan Trade Agreement (USJTA), which focused on agricultural tariffs, and the U.S.-Japan Digital Trade Agreement (USJDTA), which established standards in digital commerce.

Both went into effect in January 2020.<sup>6</sup> After the conclusion of the USJTA and USJDTA negotiations, President Trump and Japanese

Prime Minister Shinzo Abe announced that the two agreements were “stage one” of a broader

<sup>1</sup> James McBride, Andrew Chatzky, and Anshu Siripurapu, “What’s next for the Trans-Pacific Partnership (TPP)?,” Council on Foreign Relations (Council on Foreign Relations, 2021), <https://www.cfr.org/backgrounder/what-trans-pacific-partnership-tpp>.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Cimino-Isaacs, Cathleen D., and Brock R. Williams. “U.S.-Japan Trade Agreement Negotiations - Congress,” 2022. <https://crsreports.congress.gov/product/pdf/IF/IF11120>.

trade deal between the two countries.<sup>7</sup> Neither the United States nor Japan, however, have pushed to expand the trade deal as originally planned leaving the USJTA and USJDTA the only trade agreements negotiated by the Trump Administration.<sup>8</sup>

The absence of a comprehensive trade deal will have major implications for the United States and Japan if left unsolved. Both economies rely on each other as sources of business, investment, and innovation. The close relationship is a vital check on Chinese and North Korean aggression. The Biden Administration has yet to pursue further bilateral trade negotiations with Japan despite the urging of American stakeholders left out of the USJTA and USJDTA.<sup>9</sup> Many contentious topics remain between the United States and Japan, most notably NTBs and the U.S. automotive industry.<sup>10</sup>

I propose that the United States immediately restart trade talks, beginning with the facilitation of U.S. automobiles and auto parts into the Japanese market. In addition to the clear gains to the auto industry, a successful agreement could add momentum to a comprehensive trade deal with Japan.

### **Background: Issues and Concerns with U.S. Automaker Access in Japan**

The lack of U.S. auto access to the Japanese economy has a long history.<sup>11</sup> According to the U.S. auto industry, barriers place American motor vehicle products at a disadvantage not only to Japanese cars, but to European motor vehicles already established in the Japanese market such as Mercedes Benz and BMW.<sup>12</sup> Many of these were addressed in the TPP. With that terminated, the Trump Administration triggered bilateral trade talks in 2019 by threatening Section 232 national security tariffs or quotas on American auto imports from all sources, including Japan. The main purpose of these threats was to bring Japan to the negotiating table, which they did.<sup>13</sup> The threatened tariffs would have been especially harmful to Japan since it is

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<sup>7</sup> McBride, “What's next for the Trans-Pacific Partnership (TPP)?”

<sup>8</sup> McBride, “What's next for the Trans-Pacific Partnership (TPP)?”

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Alana Semuels, “Why Aren't U.S. Cars Popular in Japan?,” *The Atlantic* (Atlantic Media Company, November 6, 2017), <https://www.theatlantic.com/business/archive/2017/11/us-cars-japan/544991/>.

<sup>12</sup> Ibid.

<sup>13</sup> Gary Clyde Hufbauer and Euijin Jung, “Will Auto Trade Be a Casualty of US-Japan Trade Talks?” *PIIE*, March 1, 2021, <https://www.piie.com/blogs/trade-and-investment-policy-watch/will-auto-trade-be-casualty-us-japan-trade-talks>.

the third largest exporter of motor vehicles and parts to the United States accounting for twenty-three percent (\$40 billion) of total U.S. passenger car imports in 2018 (\$173 billion).<sup>14</sup>

The Trump Administration's focus on auto tariffs was driven by the trade deficit with Japan. President Trump wanted to turn deficit into surplus through forceful trade deals.<sup>15</sup> However, neither the resulting USJTA or USJDTA addressed the issues of the U.S. auto industry. An agreement with Japan that addresses the outstanding issues present in U.S. motor vehicle imports to Japan with the specific goal of obtaining equitable market access for U.S. automakers in the Japanese economy would give American auto companies the ability to maintain competitiveness with Japanese car brands and help promote growth in the U.S. auto industry.

## Challenges to Entering the Japanese Auto Market

US negotiators have a long record of attempts to broaden U.S. automaker market access in Japan. Results have been meager.<sup>16</sup> One of the last meaningful agreements was in 1995, during the Clinton administration a two-year dispute ended with an understanding that Japanese dealers that would add more American auto parts and cars.<sup>17</sup> However, the overall language of the agreement was vague, and the agreement did not bind the Japanese Government nor Japan's automakers to increase the purchase of American cars or auto parts, making the process voluntary.<sup>18</sup> The 1995 deal, serves as both a lesson and a blueprint to address negotiations concerning the motor vehicle sector in the future by understanding the various challenges the U.S. will face during negotiations.<sup>19</sup>

It is still a challenge for U.S. automakers to establish themselves in the Japanese economy for a variety of reasons unique to Japan. Some of the barriers are government requirements, but many other are differences in cultural influences of the Japanese market.<sup>20</sup> The vast number Japanese car dealer networks and the personalized service they provide leave little

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<sup>14</sup> Hufbauer and Jung, "Will Auto Trade Be a Casualty of US-Japan Trade Talks?"

<sup>15</sup> Ibid.

<sup>16</sup> David E. Sanger, "A Deal On Auto Trade: The Agreement; U.S. Settles Trade Dispute, Averting Billions In Tariffs On Japanese Luxury Autos," *New York Times*, June 29, 1995, sec. A, p. 1.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> "Japan - Market Challenges," International Trade Administration | Trade.gov, November 4, 2022, <https://www.trade.gov/country-commercial-guides/japan-market-challenges>.

competitive space for foreign competitors.<sup>21</sup> Foreign auto companies also have difficulty with providing spare parts in a timely fashion, partly due to customs constraints delaying the entrance of foreign auto parts into Japan.<sup>22</sup>

Today, Japanese auto brands make up around 90 percent of the automobile market in Japan.<sup>23</sup> By contrast, the three largest U.S. auto companies, General Motors, Ford, and Fiat Chrysler, make up around 45 percent of the U.S. domestic market, while Japanese brands comprise around 40 percent of the U.S. domestic market.<sup>24</sup> This disparity in market share was one of the reasons former President Trump withdrew from the TPP and renegotiated a trade deal directly with Japan that, according to the Trump Administration, would emphasize fair and reciprocal economic ties.<sup>25</sup>

### **Recommendation: Negotiations to Reduce Nontariff-Barrier Measures and Cultivate a Trade Deal to Allow US Access in the Japanese Auto Market.**

Revisiting the framework established in the TPP provides a useful picture of how to approach these issues by providing a roadmap for transparency and cooperation, top concerns of the U.S. auto industry. My recommendations for how to approach the issue of unfair NTBs and enter the Japanese EV market include the following:

#### **Reduction of NTBs:**

A level playing field in the Japanese market has been a longstanding point of contention for U.S. automakers. Many U.S. car companies see Japan's process of importing U.S. vehicles to be opaque and lengthy, subjecting automotive products to numerous NTBs.<sup>26</sup> For instance, the American Automotive Policy Council stated that practices such as lengthy car inspections of foreign-made vehicles and prohibiting existing automobile dealers from selling foreign cars prevent foreign car companies from entering the Japanese market.<sup>27</sup> The TPP directly addressed auto imports by requiring Japan to commit to opening their regulatory process and

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<sup>21</sup> "Japan - Market Challenges," International Trade Administration | Trade.gov

<sup>22</sup> Semuels, "Why Aren't U.S. Cars Popular in Japan?"

<sup>23</sup> Bekker, "2016 (Full Year) Japan: Best-Selling Car Manufacturers and Brands,"

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> "Questions and Answers about the Japanese Auto Industry and the Trans-Pacific Partnership," JAMA (Japan Automobile Manufacturers Association, August 3, 2016), <https://www.jama.org/questions-and-answers-about-the-japanese-auto-industry-and-the-trans-pacific-partnership-2/>.

<sup>27</sup> Semuels, "Why Aren't U.S. Cars Popular in Japan?"

reduce regulatory costs for U.S. motor vehicles producers.<sup>28</sup> The United States needs to take lessons from previous negotiations with Japan and try a new approach directed at NTBs. In the 2022 National Trade Estimate Report on Foreign Trade Barriers, such NTBs include the non-acceptance of U.S. Federal Motor Vehicle Safety Standards certification, maintaining unique standards and testing protocols, unique spectrum allocation for short-range vehicle communication systems, an insufficient level of transparency, including the lack of opportunities for input by interested persons throughout the process of developing regulations, and the hindrances to the development of distribution and service networks.<sup>29,30</sup>

### **Accelerated Dispute Settlement Mechanism (DSM):**

The TPP included accelerated dispute settlement procedures to specifically address violations affecting motor vehicles, including stiff penalties such as delaying U.S. tariff cuts.<sup>31</sup> Under the TPP, the DSM was to be more transparent. For instance, disputing parties had to hold open hearings and make their written submission public unless there were issues with confidentiality. In addition, unlike the DSM in the World Trade Organization (WTO), the TPP provided monetary compensation as a remedy.<sup>32</sup>

### **Transparency:**

Regulations within the TPP ensured that the committees advising Japan's regulators operate in a transparent and open manner allowing for timely, public notice of meetings where stakeholders can come and participate.<sup>33</sup> Participation in these meetings allows stakeholders to stay more informed on proposed regulations and policy changes.

### **Standards and New Technologies:**

One of the biggest costs for U.S. automakers regarding the Japanese market was adhering

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<sup>28</sup> Andrew Shoyer et al., "TPP Dispute Resolution: Settlement Mechanism vs. WTO," sidley.com, 2016, <https://www.sidley.com/~media/publications/law360tpp-dispute-resolutionsettlement-mechanism-vs-wto.pdf>.

<sup>29</sup> Semuels, "Why Aren't U.S. Cars Popular in Japan?"

<sup>30</sup> "2022 National Trade Estimate Report on Foreign Trade Barriers," March 2022, <https://ustr.gov/sites/default/files/2022%20National%20Trade%20Estimate%20Report%20on%20Foreign%20Trade%20Barriers.pdf>, pg. 302.

<sup>31</sup> "U.S.-Japan Motor Vehicle Trade Non-Tariff Measures," ustr.gov, accessed November 1, 2022, <https://ustr.gov/sites/default/files/TPP-Summary-US-Japan-Motor-Vehicle-Trade-Non-Tariff-Measures.pdf>, pg. 3

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

to Japan's unique standards (moving the steering wheel to the right-side of the car for example).<sup>34</sup> Japan had also delayed permission to sell vehicles with advanced technologies from foreign manufacturers as these vehicles might have a competitive advantage over Japanese models.<sup>35</sup> Under the TPP, Japan agreed to accept certain U.S. motor vehicles standards and unjustifiably delay vehicles containing new technologies.

#### **Preferential Handling Procedure:**

Another important facet addressed in the TPP was Japan's Preferential Handling Procedure (PHP) and how it allows foreign automakers to sell cars in Japan using faster, less costly certification procedures.<sup>36</sup> Overall, the PHP allowed small volume vehicle imports faster processing if they complied with simplified and expedited procedures. In TPP, Japan agreed to double to size of the PHP program and gave assurances to its trade partners that the process would not become more costly or complex.<sup>37</sup>

#### **Motor Vehicles Committee:**

To ensure that the non-tariff barrier reductions remain in place, the United States and Japan can establish a joint motor vehicles committee to monitor implementation of the agreement and to means of consultation regarding any issue that may arise.<sup>38</sup>

#### **Leverage US Comparative Advantage in EV Market:**

The United States needs to recognize that having a sizeable share of the Japanese EV market will be a difficult task due to cultural and business differences. The EV auto component market, however, could be a possible avenue for American EV producers to gain a foothold in the Japanese market by contributing to the development of Japan's EV infrastructure. There is also a burgeoning, albeit nascent, Electric Vehicle (EV) market in Japan, which aims to fully transition its auto market to EVs by 2035.<sup>39</sup>

While attempting to enter the Japanese market via EV auto parts, US negotiators should also address Japan's subsidies allocated to its EV industry. According to the 2022 National Trade

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<sup>34</sup> "U.S.-Japan Motor Vehicle Trade Non-Tariff Measures," pg. 3.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

Estimate Report on Foreign Trade Barriers, Japan offers subsidies that provide domestically manufactured EVs an advantage over foreign models. For instance, Japan provides a purchase subsidy of up to ¥600,000 (approximately \$5,500) for traditional battery vehicles, but provides a ¥2.5 million (approximately \$22,800) subsidy for fuel cell electric vehicles that primarily come from Japanese companies.<sup>40</sup> Although American EV companies have had limited success in the Japanese market, they remain at a disadvantage with the current subsidies that the Japanese government provides its EV producers. Negotiating a reduction of these subsidies – recognizing that the US also provides a ‘made in USA’ subsidy<sup>41</sup> – could possibly allow American EV companies and auto part producers to have more equitable market access in the Japanese economy.

## **Political Implications and Stakeholders**

These proposed policy measures can serve as a starting point in obtaining access to the Japanese market for U.S. automakers by streamlining the import process. Moving forward, there will be various challenges to the success of these negotiations both domestically and internationally. One such challenge will be managing the various stakeholders invested in the success or failure of a potential trade deal. For the United States, there are several key stakeholders within the government and private sector, and the biggest challenge of gathering support for this policy change is Congress whose support will be crucial in terms of codifying the trade agreement into law.

### **1. Congress**

Congress, with authority to ratify agreements with other countries, will be conflicted to a deal promoting easier access for U.S. automakers in the Japanese market. Members of Congress who represent districts where the auto industry is a focal point of their local economies should support this deal. Many will favor it for job growth, particularly manufacturing jobs. Others will be resistant, especially members generally wary of free-trade agreements, who might argue that such a deal would reduce American jobs.

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<sup>40</sup> “U.S.-Japan Motor Vehicle Trade Non-Tariff Measures,” pg. 3.

<sup>41</sup> Claire Bushey, “Subsidies Spark EV Manufacturing Race in U.S. States,” Financial Post, 2022, <https://financialpost.com/commodities/energy/electric-vehicles/subsidies-spark-ev-manufacturing-race-in-u-s-states>.

## 2. U.S. Auto Industry

Of all the private stakeholders, the most overwhelming support will come from the U.S. auto industry. Since the influx of Japanese automotive competition in the 1980's,<sup>42</sup> American automakers have been advocating that the U.S. government negotiate easier access in Japan's market. The U.S. auto industry has long held the belief that Japanese trade practices are unfair and give Japanese brand cars an unfair advantage in their domestic market. More access to the Japanese market will help U.S. automakers accrue more revenue in the long run, and help establish a niche market for American brand automobiles. The U.S. auto industry can possibly help garner support in Congress for a potential trade deal with lobbying from the automotive sector.

## 3. U.S. Auto Parts Sector

The U.S. Auto Parts Industry would support a trade deal with Japan as such a deal would help these sectors gain more business as well. With more market access for U.S. motor vehicles in Japan, there can be an expected increase in demand for U.S. auto parts. A streamlined volume of auto parts could have a positive effect on Japanese market share. One of the current issues pertaining to foreign automakers in Japan right now, many Japanese customers are accustomed to the convenience of efficiency of domestic brands in providing easily available auto parts for their Japanese vehicles.<sup>43</sup> Although the U.S. auto part industry does not possess a lot of swaying power in an official capacity, it can use its lobbying power in Washington D.C., to cultivate support in Congress.

## 4. Steel, Aluminum, and Glass Industries

The steel, aluminum, and glass industries would support an auto trade deal with Japan as it would promote more exports from the U.S. auto industry, thus creating more business in the long-run. More auto manufacturing will mean an increase in demand for products used in the manufacturing of motor vehicles such as steel, aluminum, and glass. A potential challenge to consider are the current tariff rates on steel and aluminum. Although tariffs<sup>44</sup> are lower than they

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<sup>42</sup> Paul R. Kurgman, Maurice Obstfeld, and Marc J. Melitz, "Case Study: A Voluntary Export Restraint in Practice," in *International Economics Theory and Policy*, Eleventh (Harlow, United Kingdom: Pearson, 2018), pp. 262-263.

<sup>43</sup> Semuels, "Why Aren't U.S. Cars Popular in Japan?,"

<sup>44</sup> Alex Durante, "How the Section 232 Tariffs on Steel and Aluminum Harmed the Economy," Tax Foundation, September 26, 2022, <https://taxfoundation.org/section-232-tariffs-steel-aluminum/>.

were when President Trump initiated them in 2018, policy makers should consider a further reduction on these tariffs to decrease the flow of raw materials into the United States.

Like the automotive and auto parts industries, the steel, aluminum and glass industries have limited influence on the eventual outcome of the negotiations; however, they can have some impact on members of Congress through lobbying.

## 5. Electric Vehicle Manufacturers Combined with Auto Industry

EV manufacturers in the United States would support an auto trade deal to promote more business in the long-run. The selling of EV automotive parts to Japanese manufacturers could provide Japan with the necessary technology that would develop its EV infrastructure. A reduction in subsidies could also provide opportunities for American EV manufacturers to enter their latest automotive models to the Japanese public. The EV industry has limited influence on the eventual outcome of the negotiations; however, they can have some impact on members of Congress through lobbying.

### Other Stakeholders to Consider:

*International Shipping Companies:* An increase of auto exports to Japan would mean more shipping contracts.

*External Industries:* Other industries that would also like to have more market access to the Japanese economy (e.g., the dairy and rice sectors).<sup>45</sup> A finalized deal could provide a blueprint for these sectors to initiate future trade negotiations with Japan.

## Stakeholders of Japan

The various stakeholders will all prove to be challenges in structuring a trade deal for the U.S. auto industry. It will be necessary to target the key players in Japanese trade policy and approach the negotiations with a firm, but not too aggressive strategy. These stakeholders will need to be convinced on how U.S. auto brands will be a benefit to the Japanese market.

### 1. Ministry of Finance

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<sup>45</sup> Cathleen D. Cimino-Isaacs and Brock R. Williams, “U.S.-Japan Trade Agreement Negotiations - Congress,” 2022, <https://crsreports.congress.gov/product/pdf/IF/IF11120>.

The Ministry of Finance (MOF) of Japan led by Suzuki Shunichi would be opposed to a significant reduction in trade barriers for foreign auto competition.<sup>46</sup> One of the primary goals of the MOF is to ensure the stability of Japanese domestic industries. Any sort of reduction in protections in an important sector in Japan's economy such as the auto industry could harm domestic manufacturers. The MOF has substantial influence over the customs and tariffs policies of Japan. Productive negotiations with Mr. Shunichi and his staff will be imperative in obtaining a reduction of non-tariff barriers.

## **2. Ministry of Economy, Trade and Industry**

Like the MOF, the Ministry of Economy, Trade and Industry (METI), headed by Nishimura Yasutoshi, would be opposed to large reductions in trade barriers that may weaken the competitive nature of Japan's domestic auto sector.<sup>47</sup> An important role METI plays in Japanese trade is ensuring Japan's industries are competitive via trade measures that make sure imports are consistent with internal product regulations and standards. Since METI has control over Japan's trade controls and economic cooperation, having a constructive dialogue with Mr. Yasutoshi and the METI delegation will be essential in promoting aspects of our proposed policy change such as transparency and changes in regulations and new technologies.

## **3. Japanese Auto Industry**

The greatest opposition the negotiations will face will be from the Japanese auto industry in addition to other industries protected by non-tariff measures. Ninety percent of cars sales in the Japanese market come from domestic manufacturers, and potential competition from American auto goods could threaten that market share.<sup>48</sup> Since government bodies in Tokyo make most of the important economic decisions, Japanese auto companies will have limited influence on the ultimate result of the negotiations.

In addition to garnering support from stakeholders, increasing market access for the U.S. auto industry in Japan will require thorough legal examination of existing domestic and international laws to determine potential legal challenges to the implementation of this policy.

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<sup>46</sup> "Ministry of Finance: Policy Evaluation," Ministry of Finance, April 11, 2022, [https://www.mof.go.jp/english/about\\_mof/policy\\_evaluation/index.html](https://www.mof.go.jp/english/about_mof/policy_evaluation/index.html).

<sup>47</sup> "METI Overview: Trade Control," Trade Control / METI Ministry of Economy, Trade and Industry, October 3, 2022, [https://www.meti.go.jp/english/policy/external\\_economy/trade\\_control/index.html](https://www.meti.go.jp/english/policy/external_economy/trade_control/index.html).

<sup>48</sup> Alana Semuels, "Why Aren't U.S. Cars Popular in Japan?"

Having a clear understanding of any legal issues will increase the chance towards the policy's success, and it can serve as a guide for future trade negotiations with Japan.

## Legal Challenges with the WTO

### Adherence to GATT Article XXIV:

The limited scope of the proposed trade agreement raises questions about the extent to which it adheres to Article XXIV of the General Agreement on Tariffs and Trade (GATT).<sup>49</sup> This Article requires that trade agreements outside the WTO must eliminate duties and other restrictive measures of commerce on “substantially all trade”<sup>50,51</sup> between parties.<sup>52,53</sup> President Trump circumvented Article XXIV when he signed the similarly narrow USJTA and USJDTA. Some analysts argued that the two agreements serve as permissible “interim agreements.” However, for a trade accord to qualify as an “interim agreement” there must be an established “plan and schedule” for the formation of a free trade area within a “reasonable length of time.”<sup>54</sup> In the case of the USJTA and USJDTA, the Trump Administration did not establish this plan.

In practice, WTO members have rarely challenged other trading partners' agreements for consistency under Article XXIV.<sup>55</sup> The USTR and the Biden Administration, however, must ask themselves several key questions

- Will the addition of an agreement for U.S. auto access to the Japanese market be a continuation of the USJTA and USJDTA agreement?
- If so, how will the United States and Japan establish a timetable that will adhere to the stipulations of Article XXIV?

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<sup>49</sup> Cathleen D. Cimino-Isaacs, and Brock R. Williams. “U.S.-Japan Trade Agreement Negotiations - Congress,” 2022. <https://crsreports.congress.gov/product/pdf/IF/IF11120>, pg. 2.

<sup>50</sup> Ibid.

<sup>51</sup> Cathleen D. Cimino-Isaacs, Anita Regmi, and Brock R. Williams, “‘Stage One’ U.S.-Japan Trade Agreements,” CRS reports, December 20, 2019,

<https://crsreports.congress.gov/product/pdf/R/R46729/2>, pg. 20.

<sup>52</sup> Ibid.

<sup>53</sup> The WTO does not define “substantially all trade,” but member countries have generally interpreted it to mean 90% of trade. See [https://www.wto.org/english/docs\\_e/legal\\_e/gatt47\\_02\\_e.htm#articleXXIV](https://www.wto.org/english/docs_e/legal_e/gatt47_02_e.htm#articleXXIV).

<sup>54</sup> Ibid., pg. 18.

<sup>55</sup> Cimino-Isaacs and Williams. “U.S.-Japan Trade Agreement Negotiations - Congress”

In addition, the United States needs to consider the precedent these trade talks with Japan set in terms of legal aspects of future negotiations:

- Will other countries begin talks that focus on agreements of limited scope?
- Could these negotiations potentially discriminate against the United States and undermine the respect and adherence to the WTO?

Therefore, after the conclusion of the negotiations for U.S. auto market access, the United States should establish a timetable to continue trade talks with Japan for the purpose of establishing a more comprehensive free trade deal if it intends to abide by the legal framework of Article XXIV.

### Japan's Violation of GATT Article XI:

Another legal aspect to consider is Japan's adherence to Article XI. One of the principal changes concerning Japanese market access for the United States is the reduction of non-tariff barriers. Although Japan has low tariff rates on their imports,<sup>56</sup> Japan employs technical barriers to trade on auto imports such as authorization requirements, restriction of certain substances, labelling requirements, regulations on transport and storage, and product quality or performance requirements (not including additional charges and taxes).<sup>57</sup>

Article XI prohibits using non-tariff measures to restrict imports.<sup>58</sup> With the WTO's Dispute Settlement Mechanism (DSM) in limbo,<sup>59</sup> meaningful WTO intervention will be highly unlikely. Japan must be made to reduce its non-tariff barriers. If traditional negotiations do not progress, the United States must find a more effective tool and develop the leverage to convince Japan to lower their non-tariff barriers.

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<sup>56</sup> "Japan - Country Commercial Guide: Import Tariffs," International Trade Administration Trade.gov, January 8, 2022, <https://www.trade.gov/country-commercial-guides/japan-import-tariffs#:~:text=The%20average%20applied%20tariff%20rate,Agriculture%20products%20%E2%80%94%2015.5%25>.

<sup>57</sup> "Japan NTM Measures for Transportation," WITS, accessed November 19, 2022, [https://wits.worldbank.org/tariff/non-tariff-measures/en/type-count/country/JPN/product/86-89\\_Transport](https://wits.worldbank.org/tariff/non-tariff-measures/en/type-count/country/JPN/product/86-89_Transport).

<sup>58</sup> "GATT Article XI," WTO, accessed November 19, 2022, [https://www.wto.org/english/res\\_e/publications\\_e/ai17\\_e/gatt1994\\_art11\\_gatt47.pdf](https://www.wto.org/english/res_e/publications_e/ai17_e/gatt1994_art11_gatt47.pdf).

-Article 1: **No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures**, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

<sup>59</sup> "Dispute Settlement - Appellate Body," WTO, accessed November 19, 2022, [https://www.wto.org/english/tratop\\_e/dispu\\_e/appellate\\_body\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/appellate_body_e.htm).

## Challenges in Domestic Law

An additional legal challenge is determining the role of Congress and the President when it comes to crafting and signing trade agreements. Since 1974, Congress has enacted the Trade Promotion Authority (TPA) laws to guide both Democratic and Republican Administrations in pursuing trade agreements.<sup>60</sup> The TPA is a legislative procedure through which Congress defines U.S. negotiating objectives and establishes a detailed consultation process throughout trade negotiations.<sup>61</sup> In addition, Congress retains the authority to review and decide on the implementation of any proposed U.S. trade agreement under the TPA.<sup>62</sup> Key elements to consider within the TPA are 1) Congressional guidance to the President, 2) Congressional consultation with private sector and stakeholders, and 3) Conditions and procedures under which Congress allows the Administration to enter trade talks.<sup>63</sup>

In 2019, the Trump Administration enacted both the USJTA and the USJDTA without Congressional approval, an unprecedented move for U.S. free trade agreement (FTA) negotiations. However, the negotiations of the USJTA and USJDTA were able to occur in the first place due to a piece of legislation, the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA-2015).<sup>64</sup> The TPA-2015 authorized the President to enter into trade agreements with foreign countries to reduce “duties or other import restrictions” that the President determines are “unduly burdening and restricting” the United States’ foreign trade.<sup>65</sup> In terms of lowering tariffs, which the USJTA accomplished, what the Trump Administration did was legal. However, the TPA-2015 expired on July 1, 2021.<sup>66</sup> The issue now is whether Congress will want to renew this piece of legislation to possibly accelerate the commencement of trade talks with Japan.

Moving forward, Congress will need to decide if it will take back its role as main overseer of trade negotiations, appoint this role to the President and his team of negotiators, or

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<sup>60</sup> “Trade Promotion Authority,” United States Trade Representative, accessed November 19, 2022, <https://ustr.gov/trade-topics/trade-promotion-authority>.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

<sup>64</sup> Christopher A. Casey and Brandon J. Murrill, “Presidential Authority to Address Tariff Barriers in Trade Agreements,” Congressional Research Service, January 6, 2022, <https://crsreports.congress.gov/product/pdf/IF/IF11400>, pg. 1.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

create an agreement that will be a mixture of these two legislative avenues. Since the USJTA and USJDTA were not comprehensive trade deals, Congress will also need to decide the legal route it will take concerning trade negotiations for the U.S. auto industry.

## **Concerning a Fast-track Dispute Settlement Mechanism and Joint Motor Vehicle Committee**

### **The Establishment of a Dispute Settlement Mechanism:**

Another key legal measure in the negotiations of U.S. auto access to the Japanese market is the need to have a Dispute Settlement Mechanism (DSM) to address potential disagreements regarding auto trade and or violations of the trade agreement itself. This expedited process prevents the need to invoke litigation via the DSM of the WTO, which can be a long and arduous process involving multiple parties and repeal processes.

When creating the legal framework of this DSM, both the United States and Japan need to consider what will be the necessary features to address potential auto trade disputes. Another aspect to consider is that because this trade agreement will be bi-lateral, both countries will need to implement mechanisms that will be as fair as possible, as neutral third-party observers will not be a part of the dispute process. Therefore, the United States will need to propose a DSM based on ad hoc negotiations if a trade issue arises with an accelerated timetable for deliberation.<sup>67</sup> Both the United States and Japan should implement incentives in the language of the DSM to encourage cooperative dialogue and quick resolution, as the goal of this specific DSM is to resolve disagreements in an efficient manner and avoid triggering the legal process of the DSM of the WTO. The United States and Japan can use the new DSM to address potential trade disputes and make efficient resolutions through special rounds of negotiations and utilize it as a framework for a future comprehensive FTA in the future.

### **Joint Motor Vehicle Committee:**

Like the DSM, the United States needs to consider the legal aspects in creating a joint motor vehicle committee (JMVC) for U.S.-Japanese auto trade. As mentioned in the original White Paper, the JMVC will serve as an insurance policy that Japan adheres to its potential reduction of non-tariff measures in the U.S. auto trade talks, and it will assist in the promotion of transparency and implementation of additional stipulations such as agreements on standards and

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<sup>67</sup> Casey and Murrill, "Presidential Authority to Address Tariff Barriers in Trade Agreements"

technologies.<sup>68</sup> Legal language will require Japanese regulators to notify American manufacturers on significant regulatory issues with timely notice. As the JMVC will serve as an insurance measure, the United States and Japan need to use clear legal language on how the JMVC will function, what power it will have and how both parties will implement that power legally. The elimination of as much ambiguity as possible will allow for the efficient implementation of adopted measures in the future trade talks, permitting an easier transition for the U.S. auto industry to introduce more of its products in the Japanese economy.

## Media Analysis

In addition to the legal issues presented by a trade deal with Japan, public perception will matter greatly, necessitating an effective media strategy in both America and Japan. There are three key messages:

Overall Economic Growth – The primary USTR message is job creation as U.S. automakers establish easier access to the Japanese market generating more investment and jobs to supply motor vehicles bound for Japan. Successful trade negotiations could result in a positive “spillover” effect of job growth into other industries in the United States (e.g., auto parts, U.S. dairy and rice producers).

1) Future Business Investment – With one of the goals of these economic negotiations being the elimination of non-trade barriers, successful negotiations could result in future U.S. business opportunities broader than autos in Japan.

2) Further Cooperation with Japan – In the wake of successful negotiations of a trade deal for U.S. automakers in Japan, as well as the growing tensions with China, the USTR needs to stress the importance of further talks with Japan to strengthen economic and geopolitical ties.

Generating media coverage targeting congressional lawmakers will be key in gathering support for a new trade deal with Japan. It will be imperative to persuade members of Congress who may be on the fence of supporting a trade deal and members who may hold reservations and could become potential roadblocks in the process of the trade deal passing through Congress.

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<sup>68</sup> “U.S.-Japan Motor Vehicle Trade Non-Tariff Measures,” [ustr.gov](https://ustr.gov/sites/default/files/TPP-Summary-US-Japan-Motor-Vehicle-Trade-Non-Tariff-Measures.pdf), accessed November 1, 2022, <https://ustr.gov/sites/default/files/TPP-Summary-US-Japan-Motor-Vehicle-Trade-Non-Tariff-Measures.pdf>, pg. 3.

Targeting the constituents of members of Congress would encourage passage of the trade deal.

Beyond Congress are many influential voices, such as advisors to the President, Cabinet Secretaries, and other policy experts in crafting trade deals. Civil society, local business interests – including small and medium enterprises – and the public at large are vital to establish a strong support base in areas of the country where the auto industry takes prominence, especially where promoting public support may persuade apprehensive Congressional representatives into supporting the trade deal.

## Recommended Media Outlets

**Print: (Newspapers)** *Wall Street Journal*, *Washington Post*, *New York Times*, *Los Angeles Times*, **(Academic Magazines)** *Foreign Affairs*, *The Economist*, and *Politico Magazine*<sup>84</sup>

National publications such as the *Wall Street Journal*, *Washington Post*, and *New York Times* and *Los Angeles Times* are influential avenues for the USTR to inform target audiences. More esoteric publications like *Foreign Affairs*, *Foreign Policy*, and *The National Journal* will give a more targeted approach towards members of Congress and policy makers who specialize in international trade. Local print media, like *The Detroit Free Press*, would share these articles with their readers. Television also matters.

Having pundits and experts appear on these national television networks will provide the target audience with transparency on the goals of trade policy. Moreover, non-traditional media is increasingly important, such as streaming services for documentaries with the purpose of public education on the value of economic ties with Japan and why an auto trade deal would be vital in taking the next step of cementing a relationship critical to economic and geopolitical stability in East Asia.

Although the Japanese public will not play as big a role as the American public in terms of influencing their Diet of supporting another trade deal with the US, it would be prudent to try to cultivate as much support as possible for closer economic cooperation with the US. An effective US media strategy is not limited to the US.<sup>69</sup> Engagement with the Japanese media is essential. Informing the Japanese public, supporting supporters of the deal, and putting pressure on opponents in Japan with solid analysis, evidence and persuasive arguments in the public

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<sup>69</sup> Bruce Stokes and Kat Delvin, “5. Views of the U.S. and President Trump,” Pew Research Center's Global Attitudes Project (Pew Research Center, July 24, 2020), <https://www.pewresearch.org/global/2018/11/12/views-of-the-u-s-and-president-trump/>.

square will have a strong impact on the likelihood of success of the deal in Japan. Garnering public support in Japan will benefit the reception of these negotiations, but maintaining a sustained campaign will be a challenge given cultural and linguistic differences. A wary perception of the United States may also lead a media campaign to land on deaf ears.

A particular challenge could be significant pushback from certain members of Congress and the public who may have invested interests in no trade deal occurring with Japan. The USTR would need to target these primary counter-arguments and address these issues directly via televised town halls and interviews to bolster the position of U.S. auto access in Japan's market. Another predictable challenge would be potential pushback from the Japanese business sector and auto industry, as the potential of more U.S. motor vehicles could introduce unwanted competition. This pushback could lead to negative media coverage of the negotiations which could inhibit progress on a deal. The USTR should designate a team of experts in Japanese diplomacy and trade to address such resistance in the Japanese media via interviews and engagement with high-level Japanese officials.

## **Negotiation Strategy Recommendation**

The main task for the United States Trade Representative (USTR) in these preliminary discussions with Japan is to establish a dialogue that will lead to Japan opening their auto market to American companies and provide momentum for further economic talks. This negotiation strategy recommendation will answer the question on how the United States can create mechanisms with which the U.S. and Japanese auto industries can use to establish economic cooperation.

### **A. Background**

The negotiations between the United States and Japan will allow the United States to establish its economic objectives in the removal of Japanese non-barriers to trade that affect U.S. automakers. The USTR should raise the concerns of domestic groups, such as the American Automotive Policy Council and US auto manufacturers, in addressing Japanese trade practices of lengthy car inspections of foreign-made vehicles and prohibiting Japanese automobile dealers from selling foreign cars in Japan. The USTR should also establish the desire to pursue a more comprehensive auto deal by addressing an accelerated dispute settlement mechanism, transparency practices, standards and new technologies, and preferential handling

procedures. Additionally, the United States should be clear in its commitment to U.S.-Japanese relations and should emphasize the importance of a more comprehensive FTA as the long-term goal of these negotiations.

### **B. Cultural Awareness**

It will be imperative for the USTR and the negotiating team to keep in mind several cultural aspects when negotiating with the Japanese delegates. Keeping these cultural aspects in mind will allow the negotiations to occur more amicably, allowing for our Japanese colleagues to be more receptive to our economic goals. One way to achieving a cooperative posture is by recognizing cultural practices and strategies that are common in United States diplomacy, which is task-oriented, using direct speech to explain goals to whomever is listening.<sup>70</sup> Using aggressive tactics will hinder the speed and efficiency of these negotiations as Japan's style of negotiating is different from the United States. Displaying cultural sensitivity will be a demonstration of good faith and willingness to cooperate with our Japanese colleagues.

When negotiating with Japanese diplomats, form and style matter. Remaining composed is necessary in any negotiation; however, it is vital to stay face<sup>71</sup> to maintain the respect of the Japanese negotiators. A display of arrogance or animosity towards a proposition from the Japanese diplomats could delay and halt any progress at the negotiating table.<sup>72</sup> The decision-making process in Japan, especially concerning governmental issues, requires lengthy deliberations and meetings to analyze every aspect of an agreement. The United States will need to recognize this process, but at the same time, be firm in being clear with Japan that reaching a deal in a timely manner would be beneficial for both economies.<sup>73</sup>

In Japanese culture the word 'no' is rarely used outside of relationships between a superior and an inferior. Being able to recognize cues of disagreement from the Japanese delegation will be a great asset in assessing the state of the negotiations. Since these negotiations are in an international setting, this may be less of a problem, but an aspect to be aware of nonetheless.<sup>74</sup> Although cultural point number one emphasizes maintaining emotional composure

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<sup>70</sup> Nigel Quinney, "U.S. Negotiating Behavior," United States Institute of Peace, October 13, 2002, <https://www.usip.org/publications/2002/10/us-negotiating-behavior>.

<sup>71</sup> The term "saving face" refers to acting in a manner that maintains one's reputation while keep another party's respect. Avoiding embarrassment and keep one's dignity.

<sup>72</sup> Howard F. Van Zandt, "How to Negotiate in Japan," Harvard Business Review, August 1, 2014, <https://hbr.org/1970/11/how-to-negotiate-in-japan>.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

during negotiations, it will be essential that the United States negotiating team displays sincerity to build social capital with the Japanese delegation. The United States can leverage this social capital to build trust and relationships necessary to ensure that these preliminary talks continue in the future to establish a more comprehensive trade deal.<sup>75</sup>

Although understanding Japanese etiquette does not directly address US economic concerns, keeping these cultural distinctions in mind will indirectly aid the process of negotiations. Gaining the respect of our Japanese allies could leave them to be more receptive to our economic position, and using any advantage, even cultural, can be a great advantage at the negotiating table by building social capital which the USTR can leverage in future talks.

### C. Analysis of Negotiations

1) The USTR should address how Japan, the third largest automobile market in the world, is also the industrialized world's most closed and protectionist market.

- Japan ranks 30th out of 30 of the Organisation for Economic Co-operation and Development (OECD) countries in measuring access for imported autos.<sup>76</sup>
- Total auto imports to Japan from the world measure only 3.9% of the market; therefore, Japanese automakers control 96% of their domestic auto market.<sup>77</sup>
- Japan exports an estimated 40% of its car and truck production with the majority going to North America and Europe.<sup>78</sup>

2) Japanese government policies have created a domestic auto market closed to outside competition.

- Japan's national industrial policies have left little room for foreign competition in its market where it has had ample opportunity to invest and enter in the United States domestic market.<sup>79</sup>

3) Japan uses non-tariff barriers to prevent foreign auto imports to a minimum.

- Japan's strict investment laws prevent US companies from establishing manufacturing facilities, preventing US companies from participating in the

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<sup>75</sup> Zandt, "How to Negotiate in Japan"

<sup>76</sup> "Japan's Protected Auto Market - American Automakers," [www.americanautomakers.org](http://www.americanautomakers.org), accessed December 16, 2022, <https://www.americanautomakers.org/sites/default/files/Japans%2BProtected%2BAuto%2BMarket.pdf>.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

Japanese market.<sup>80</sup>

- Japan requires the inspection of each individual imported car to the Ministry of Transport for two days before approval for sale.<sup>81</sup>
- Japan's exclusive *keiretsu*<sup>82,83</sup> arrangements between the government and Japanese automakers prevent US auto companies from doing business in Japan.<sup>84</sup>
- Japan has used automotive technical regulations as means to protect local markets by creating difficult and costly regulatory and certification requirements with little or no safety or emissions benefits.<sup>85</sup>
- The design of the Japanese tax system benefits domestic over imported motor vehicle types.<sup>86</sup>

The USTR should use the above talking points during the negotiations to demonstrate that there is an imbalance between the auto trade between the United States and Japan. To ameliorate this imbalance, Japan allowing more market access to United States motor vehicles could be a 'win-win' for both economies by spurring innovation, competition, and job growth.

#### **D. Potential areas for Concessions**

One area of concessions that the Japanese negotiating team might address is its desire to lower US tariffs on passenger auto and light truck tariffs (currently 2.5% and 25% respectively).<sup>87</sup> The United States should be receptive to this concession, and this strategy could signal to the Japanese delegation that the United States is willing to make accommodations for Japan to encourage foreign direct investment. This could lead to potential investment opportunities in other industries with the prospect of a comprehensive trade deal. By holding a cooperative posture, the United States can signal to Japan that it is serious about crafting a trade

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<sup>80</sup> "Japan's Protected Auto Market - American Automakers"

<sup>81</sup> Ibid.

<sup>82</sup> Daniel Liberto, "What Is Keiretsu? How It Works in Business, and Types," Investopedia, November 21, 2022, <https://www.investopedia.com/terms/k/keiretsu.asp>.

<sup>83</sup> Keiretsu is a Japanese term referring to a business network made up of different companies, including manufacturers, supply chain partners, distributors, and occasionally financiers. They work together, have close relationships, and sometimes take small equity stakes in each other, all the while remaining operationally independent. Translated literally, keiretsu means "headless combine."

<sup>84</sup> "Japan's Protected Auto Market – American Automakers"

<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> Cathleen D. Cimino-Isaacs, "U.S.-Japan Trade Agreement Negotiations," Congressional Research Service, November 9, 2022, <https://crsreports.congress.gov/product/pdf/IF/IF11120>.

deal, and that these negotiations are not an attempt to coerce Japan into an inequitable agreement, but a deal in which both parties can gain better economic opportunities.

### **E. Considerations, Challenges, and Recommendations**

1) One obstacle to consider is that the Japanese representatives may question why both parties should revisit agreements that had existed in the Trans-Pacific Partnership (TPP) such as non-tariff barriers and preferential handling procedures when it was the United States who withdrew from the agreement.

The USTR should state that the US withdrawal from the TPP was in the best economic interest of the United States according to the presidential administration at that time. Unlike the TPP, the United States is proposing a bilateral trade agreement concerning US auto imports to Japan, and in the long-term, a comprehensive trade deal. As the United States and Japan have already agreed upon two recent trade agreements in the USJTA and the USJDTA, the negotiations concerning US auto imports is the next step in a productive dialogue to mutual economic prosperity. Furthermore, the question of auto imports has been a point of contention for some time, and finalizing an updated agreement would provide the necessary momentum for further trade talks.

2) Another issue that the Japanese negotiating team could raise is the viability of US motor vehicles in the Japanese market. American cars, in general, are too bulky and cumbersome for Japanese roads, and they do not meet Japanese consumer's tastes. The Japanese consumer prefers compact, fuel-efficient vehicles. Additionally, the driving standards of Japan are different from the United States (e.g., Japan drives on the left-hand side of the road), therefore, creating specific vehicles for the Japanese market could be a burden for U.S. automakers.

The USTR should highlight how US auto investment in the Japanese market could lead to spill-over effects which could help stimulate local industries and create more manufacturing jobs. Other foreign auto companies like Mercedes and BMW have successfully established themselves in the Japanese market with success; therefore, the United States auto industry can establish itself in Japan's market as well. In addition, the topic of Japanese consumer's tastes in cars is a peripheral issue in these negotiations. Although consumer preferences in motor vehicles is an important aspect in auto trade, the Japanese use of non-tariff barriers and less-favorable treatment of American-made vehicles is the primary point of interest for the United States. It is difficult for Japanese consumers to have access to United States vehicles if they are difficult to

purchase in the first place.

3) The Japanese delegation may also ask why is the United States primary focus on automobiles? Why not begin a more comprehensive deal now?

Again, many points of interest that will allow the facilitation of U.S. motor vehicles into the Japanese domestic market will also overlap into other economic sectors. Japan and the United States can utilize aspects such as transparency and the elimination of non-tariff barriers to build stronger economic bonds which could lead to better market access for both parties and further foreign direct investment. The USTR should highlight that strong, interconnected economic relationships will be vital in maintaining bilateral cooperation and bolstering security in East Asia. China has adopted a more aggressive posture both economically and militarily in East Asia. Closer economic ties with the United States will send a strong signal to China that the alliance between the United States and Japan is only growing stronger, and that China will not be able to dominate the region without infringing upon United States interests.

### **Areas of potential growth for U.S. automakers in the Japanese market**

The goal of the negotiations with Japan is to eliminate NTBs and allow for equitable access for U.S. automakers in the Japanese market. It is not the job of the USTR or the American negotiating team, however, to assuage the Japanese consumer to purchase American automobiles. As mentioned earlier, Japanese culture plays a significant role in the development of its domestic auto business model, which is something with which foreign auto enterprises cannot compete. Therefore, for U.S. automakers to obtain a significant portion of the Japanese market, similar to the amount of U.S. market share Japanese automakers have, will be difficult, if not impossible. Yet, if Japan reduces their subsidies in the auto market, there are two automotive sectors in which American enterprises could gain a foothold: EVs and the production of EV auto components.

### **EVs and Auto Components**

The Japanese market has struggled to match the progress of China and the EU in the development of its EV infrastructure. Japan has primarily focused mostly on the production of hybrids, which first began with the introduction of Toyota's Prius in 1997 and subsequent models such as the Nissan Leaf in 2010.<sup>88</sup> While most EVs have gained popularity within the

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<sup>88</sup> Carolyn Fortuna, "Tesla's Popularity in Japan & Its Future EV Market," CleanTechnica, February 19, 2022, <https://cleantechnica.com/2022/02/18/teslas-popularity-in-japan-its-future-ev-market/>.

past few years (see Appendix A). EVs account for only 1% of Japan's overall car sales in 2021, resulting in around 8,610 vehicles sold.<sup>89</sup> The American EV company Tesla sold 5,200 of those vehicles, and it has experienced success in capturing more of the Japanese EV market share primarily among Japan's young and wealthy.<sup>90</sup>

Despite the success of Tesla, challenges lay ahead that could stagnate further American presence in the Japanese EV market. One main issue is the practicality of owning an EV in Japan. The lack of a charging infrastructure, EV-dedicated parking space, and subsidies were key reasons as to why many Japanese consumers were hesitant to purchase a foreign EV, not to mention the cost.<sup>91</sup> Despite subsidies and Tesla price cuts on the Model 3 increased demand, EVs - specifically Tesla - remain as status symbols for those who can afford such a vehicle.<sup>92</sup> The type of foreign automakers that have been able to break into the Japanese auto market have been primarily luxury brands like Mercedes-Benz and BMW.<sup>93</sup> The most important element that will prove as a challenge to Tesla expansion in Japan will be due to poor brand recognition and Japan's direct to consumer business model that provides domestic auto manufacturers like Toyota and Nissan an absolute advantage in Japan's auto market.<sup>94</sup> Domestic automakers will also have the upper hand in providing the necessary infrastructure for EVs with the assistance of their network of dealers, which expand into the rural areas of Japan, something Tesla has yet to achieve as it only has seven store locations throughout Japan, all of which are concentrated in three of Japan's biggest cities: Tokyo, Osaka, and Fukuoka.<sup>95</sup>

Although Japanese auto companies will dominate the domestic EV market once they establish the necessary infrastructure, there is still opportunity for American auto manufacturers to enter this market through the production of EV auto parts.<sup>96</sup> According to a report from the International Trade Administration (ITA) in 2021, U.S. auto companies could provide tools to

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<sup>89</sup> Fortuna, "Tesla's Popularity in Japan & Its Future EV Market"

<sup>90</sup> Ibid.

<sup>91</sup> Johnna Crider, "Tesla Begins Delivering Model Ys in Japan," TESLARATI, September 9, 2022, <https://www.teslarati.com/tesla-begins-delivering-model-ys-in-japan/>.

<sup>92</sup> Ibid.

<sup>93</sup> Shiho Takezawa, "Once Niche, Tesla Capitalises on Japan's Late Embrace of Evs," Automotive Industry | Al Jazeera (Al Jazeera, February 7, 2022), <https://www.aljazeera.com/economy/2022/2/7/bb-once-niche-tesla-capitalises-on-japans-late-embrace-of-evs>.

<sup>94</sup> Ibid.

<sup>95</sup> "Tesla Stores in Japan," Tesla, 2023, <https://www.tesla.com/findus/list/stores/Japan>.

<sup>96</sup> "Japan Transition to Electric Vehicles." International Trade Administration | Trade.gov, July 7, 2021. <https://www.trade.gov/market-intelligence/japan-transition-electric-vehicles>.

help aid the development of Japan's EV infrastructure with lithium-ion batteries, solid-state batteries, batter management and analysis, vehicle-to-grid (V2G) technology, end-life battery technology, and charging infrastructure development.<sup>97</sup> Because the United States has already established the necessary technology and research and development with its own EV infrastructure, American businesses could leverage their comparative advantage to procure mutually beneficial development agreements with Japanese auto companies, gaining a small share in the Japanese auto market.

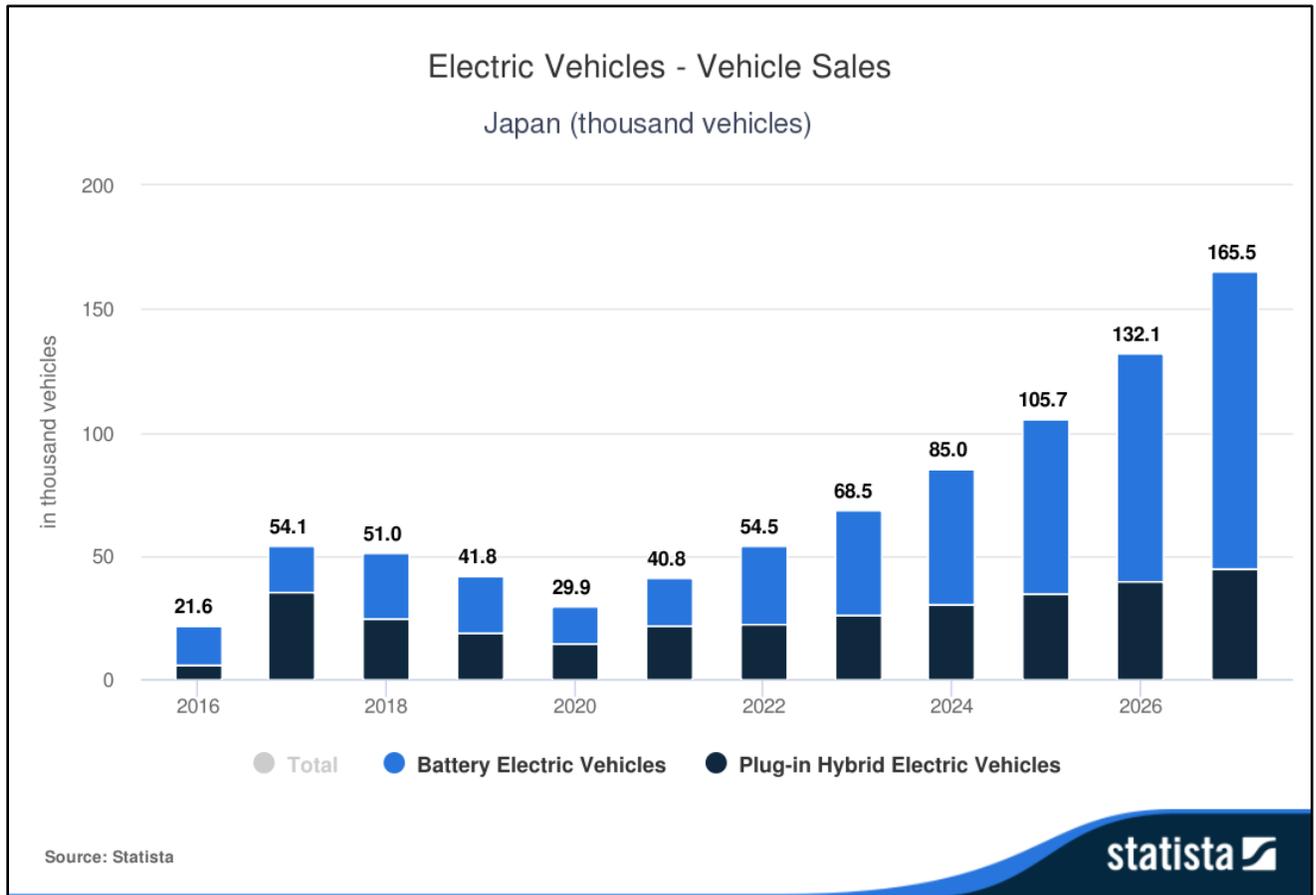
## **Conclusion**

For any progress of achieving American auto access in the Japanese market, it will be necessary to pivot from the zero-sum position that the Japanese consumer must purchase American made automobiles. This goal is counterproductive as it clashes with deep-rooted Japanese cultural and business practices. The USTR and U.S. automakers, therefore, must look at these new rounds of negotiations with a new framework, offering alternatives to the Japanese auto industry that would be value-creating and mutually beneficial. Doing so could pave the way for more productive trade talks in the future, deepening the vital U.S.-Japanese economic relationship. By eliminating NTBs, reducing Japanese subsidies, and looking for alternate routes into the Japanese economy through the production of EVs and auto components, the United States could be value creators in the U.S.-Japanese auto sector relationship.

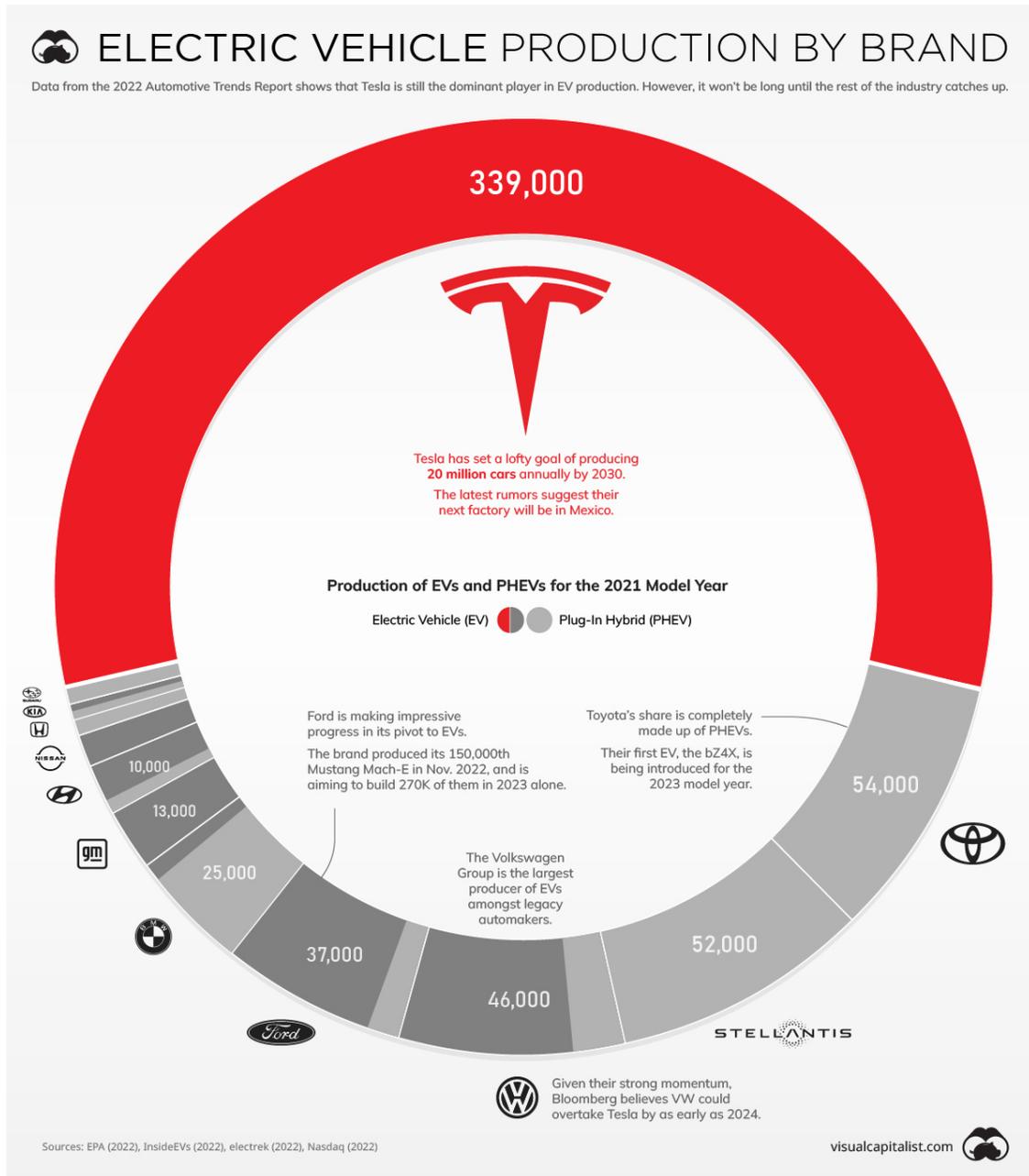
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<sup>97</sup> "Japan Transition to Electric Vehicles." International Trade Administration

## Appendix A



## Appendix B



<sup>98</sup> Marcus Lu , “Visualizing EV Production in the U.S. by Brand,” Visual Capitalist, December 22, 2022, <https://www.visualcapitalist.com/ev-production-by-brand-united-states/>.

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