Chapter 2
Limitations of Voluntary Restraints

Abstract The consumer electronics industry in the Benelux and the United Kingdom sought protection against Japan. Both governments pursued Voluntary Restraint Agreements (VRA). Scrutiny of the agreements shows that they failed to protect and even injured the industry involved. In the United Kingdom their effect favoured the Japanese industry, offering cheap and uncomplicated access to the European market. Imposition of a highly innovative protective measure by France, and massive dumping of video recorder imports from Japan endangering survival of a European VCR format, necessitated intervention by the European Commission. The result was a VRA, the details of which are presented below. This restraint implied discontinuation of both Sony's Betamax and European Video 2000 formats. It took some time before European Community authorities became aware of the catastrophic effect of this VRA. The VCR case was the first signal of the decline of the European electronics industry.

2.1 VRA Fashion

Voluntary export restraints (VERs), restraint agreements (VRAs) or orderly market agreements (OMAs) are the most characteristic settlements for Japan's export trade with importing countries in trouble. Criticism of such agreements is frequent.[1] Agreements on export self-restraint were not seen as alternatives to import restrictions, but as new forms of protectionism. VRAs and OMAs were considered a special type of protection against imports, especially from Japan. The issue of VER or OMA characteristics and their relationship with Japan is discussed in next chapter.

[1] McClenahan (1991) blames the Americans; Hindley (1986) belongs to a circuit of professional criticasters of both VERs and the Community trade policy in general. He generally confines his criticism to importing countries.

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2.2 Benefits and Luxury of a Benelux Agreement

In the second half of the 1970s, the former director of the Canadian Philips organisation returned to corporate centre in Eindhoven, the Netherlands, with serious concerns about the Japanese threat to non-Japanese consumer electronics. His concerns stemmed from negative experiences with the Japanese presence in the North-American region; the organisation had lost market share and he personally held the Japanese responsible for the loss, while others within the company held him responsible. He may have been correct, however. In the United States the audio and television industry was practically destroyed by the Japanese and TV audio industry. In his opinion, Japan posed a serious threat to Europe. European producers might technologically have been able to compete in North America, but they focused on the European domestic market: an expensive mistake. United States resistance against Japanese penetration came, although restricted to the legal front and not very successfully, from Zenith.

Prior to the introduction of CTV in Japan, RCA licensed its technology in 1962[2] and Japanese producers began manufacturing sets and exporting them, in limited quantities, to the United States. The Japanese broadcasting organization NHK prepared itself for introduction of colour television – while Japanese television manufacturers introduced their products to the United States market, a network of colour television broadcasting was set up in Japan, allowing for reception in practically every Japanese household. Together, the wide availability of reception, the Japanese wage system with its large bonus share, Japanese consumer eagerness for new products, and the high level of Japanese savings stimulated sales of luxury goods and a fast penetration of CTV. Within 5 years, more than 75 % of Japanese households had a colour television set.[3]

The formidable initial production capacity of Japanese industry for mainly small sets with a diagonal screen size of 20 in. (20″ or about 51 cm) or less made exports imperative. In contrast to the United States and European markets, the Japanese market started with small-screen sets, offering pictures with resolution more suitable for tiny rooms in small houses. When reception improved, sets with larger screen sizes were sold. In North America and Europe small screen sets were sold as second sets, i.e. after sufficient penetration of large-screen sets took place. Until 1975, not one single set larger than 21 in. was shipped to the Japanese market. Because of protective devices, such as the distribution structure – dealt with in Chap. 7 –, and technical approval procedures serving as trade barriers, competitive imports into Japan never took place. The first Japanese sets of 22 in. and above were marketed in 1975 and initially achieved a market share of only 1.6 %. Although the United States industry specialised in large screen sets, its imports into Japan remained absent. The argument that the market would not pick up large screen

[2] Prestowitz (1988, p. 201).

[3] Electronics Industry Association of Japan: "Electronics Industries in Japan, 1979–1980".

Table 2.1 Share of 22-in. sets and above in Japan's CTV market

1974	1975	1978	1984	1985	1990
0 %	1.6 %	3.8 %	3.5 %	7.3 %	45 %

sets would have been valid if sales and share of 22 in. sets and above had not increased in a series of shocks, as Table 2.1 shows.[4]

Under conditions of liberal market-access, foreign supplies imported by Japanese traders could have filled the gap between Japanese market demand and domestic supply. That did not occur. Due to booming demand and absence of imports, Japanese manufacturers could make huge wind-fall profits. In 1974, the deceleration of growth in demand in Japan came as a shock. Japan then doubled its imports into the United States between 1975 and 1976, which was mirrored by declining sales in Japan.[5]

Japan's export success crushed the United States consumer electronics industry. In 1967, Japan's TV exports to the United States totalled about 320,000 units only, but the following year exports more than doubled to 680,000 units. In June of the same year, an anti-dumping suit was filed with the Commerce Department, which launched an investigation that lasted for several years but was abruptly terminated. The Japanese import share in the US market rose from just 11 % to more than 17 % in 1970. The findings of the U.S. Tariff Commission, later the International Trade Commission, in response to the first anti-dumping complaint lodged by the Electronics Industries Association was that American industry suffered serious injury in 1971.

Only drastic undercutting of United States producers' prices could attain such a drastic increase in exports. One of the methods to accomplish such an achievement was selling under stencil brands to mass retailers and producing competitors. The products were sold under the brand of the customer rather than under the producer's own brand. Mass sales under the brand of the customer is the alternative to sales under the producer's own brand, which require costly creation of distribution reach and advertising. Another commercial concept is the Original Equipment Manufacturers (OEM) supplies. The customer, generally a manufacturer of similar products or products in the same industrial sector, draws up certain specifications and the foreign producer produces and sells these products at prices far below the costs the purchasing manufacturer would incur if it produced them itself. One of the basic features of OEM or stencil brand supplies is that the supplier offers at prices undercutting those of other potential sources, be it alternative producers or the customers' own potential or existing production.

Rather than let industry make use of legal means available, United States government agencies pre-empted legal actions and measures, thereby depriving United States industry from its legal instruments. Instead the United States came to

[4] Source: Electronics Industry of Japan (EIAJ) Survey.

[5] Data from EIAJ and Japan Tariffs Association.

terms with the Japanese Ministry of International Trade and Industry (MITI) in 1977, which involved an orderly marketing arrangement. The Japanese “restraint” limited exports of CTVs to 1.75 million units annually from 1977 to 1980. The agreement hardly protected the United States’ domestic industry. Japanese companies responded by investing in assembly operations in the United States. By the end of the 1980s, only Zenith, a United States-owned television manufacturer, had survived. The President of Zenith, John Nevin depicted the collapse of the American colour television industry ably and fervently.[6] His report gives a cynical, if not humorous impression of United States trade policy toward Japan. The outcome of this colour television OMA agreement, which was concluded in 1977, was a total collapse of the United States American television industry. This unfortunate result became apparent after Philips had started a campaign in the Benelux, which, after all, would finally have almost as derisory results, but less widely known, as Nevin’s attempts. Before Philips started its trade policy actions, it had analysed the rather fragmentary European trade policy situation.

Until the creation of the Single Market in 1992 France and Italy – and also Spain, when it was not part yet of the EC, but related to the Community in a preferential trade agreement – maintained quantitative restrictions toward a variety of Far Eastern countries. The quotas were exceptions to most-favoured nation, or non-discriminatory, treatment in the General Agreement on Tariff and Trade (GATT, the predecessor of the World Trade Organisation, WTO) and accepted as conditions for accession of these countries to GATT. France, Italy and Spain introduced these quotas as a condition for recognition of Japan as full member of the General Agreement on Tariffs and Trade; they made a general reservation on the application of the General Agreement on Tariffs and Trade to Japan when Japan acceded to the Agreement in September 1955 (invocation of Article XXXV concerning “non-application of the agreement between particular parties”). Acceptance of Japan’s accession and some other Asian countries to the General Agreement on Tariffs and Trade, for instance, was considered a one-sided concession by some countries.[7] The terms of Japan’s accession prompted other countries to impose quantitative restrictions or to demand a special bilateral trade agreement with Japan. After Japan’s acceptance of residual restrictions and a special safeguard clause, most the rules of GATT applied to Japan from 1964. Various residual quantitative restrictions of EEC countries remained in place until 1992.

Effectiveness of quantitative restrictions (QRs), and avoidance of deflection of trade required appropriate origin rules with minimum standards for processing of parts and components from the countries under QR. The general origin rules had been laid down in Regulation 802/68. QRs required specific origin rules in order to be effective. According to Article 24 of the Community Customs Code of 1992, a codification of various rules since the customs Regulation 802/68 of 1968, goods

[6] Nevin (1978) gives an account of his adventures in attempts to stem the tide.

[7] “Report on the Accession of Japan” adopted by an ad hoc Committee on agenda and intersessional business on 13 February 1953 (GATT, L/76).

whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.

The essential issue is the definition of "last, substantial, and economically justified processing". The European Community specifically defined the phrase with regard to television sets and audio tuners (radio).[8] Under the specific definition, "last, substantial, and economically justified processing" refers to 45 % of the ex-works price added during the last processing or 35 % of the materials value. By buying a tube in Europe, which represented about 30–45 % of the materials value ex-works, it was not difficult for Japanese CTV producers established in the United Kingdom to bypass the quota and to get access to the French and Italian market. For Japanese producers, the possibility of the circumvention of quotas was one of the motives for assembly in the European Community. The requirements of origin

[8] The original television origin rule (and an identical one for radio and audio tape decks) was a specification with criteria for sufficient processing of the European Community's general origin rule of Regulation 802/68 of 1968. This television rule was laid down in Commission Regulation (EEC) No 2632/70 of 23 December 1970, which has been replaced by Commission Regulation (EEC) No 2454/93 of 2 July 1993, containing provisions for the implementation of Council Regulation (EEC) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, OJ L 253, 11.10.1993 pp. 1–533, Article 39 of 2454/93: In the case of products obtained which are listed in Annex 11, the working or processing referred to in column 3 of the Annex shall be regarded as a process or operation conferring origin under Article 24 of the Code. Annex 11 to 2454/93 (part concerning CTV) describes the following processing in column (3) conferring origin to the product in column (2):

(1)	(2)	(3)
ex 8528	Television receivers, (excluding video tuners, television projection equipment and video monitors), whether or not combined, in the same housing, with radio-broadcast receivers or sound recording or reproducing apparatus, bur not with video recording or reproducing apparatus	Manufacture where the increase in value acquired as a result of assembly operations and, if applicable the incorporation of parts originating in the country of assembly represents at least 45 % of the ex-works price of the products When she 45 % rule is not met, the apparatus shall be treated as originating in the country of origin of parts whose ex-works price represents more than 35 % of the ex-works price of the apparatus When the 35 % rule is met in two countries, the apparatus shall be treated as originating in the country of origin of parts representing the greater percentage value

To radios with tuners and car radios, the same rule applied. Accordingly, only tuners in audio racks are restricted, but amplifiers, loudspeakers, record players and tape decks (the latter with the same origin rule, but there were no quantitative restrictions on the product) were not. The rule initiated some tuner assembly in the European Community, like Pioneer's assembly in Antwerp, and some assembly in France.

implied a certain level of non-Japanese content of the television sets assembled in Europe. Export limitations undertaken by an exporter were, however, of a different category than quotas with their supplementary origin rules. The origin rule is discussed in more detail below in this Chapter and in Chaps. 11 and 12.

Philips did not envisage a common European Community policy toward Japan's disruptive imports that would replace a patchwork of French and Italian restrictions, relatively liberal trade regimes of other member states and the special arrangements of the United Kingdom, which are detailed below. Germany was expected to oppose further European Community import restrictions toward Japan. Consequently, Philips had for its actions not taken stock of opportunities in the future, but based itself on the past. Certain disadvantages inherent to European-wide actions, due to historical data, were rather decisive indicators for choices between the options.

The Benelux, a trade and customs and economic cooperation union among Belgium, the Netherlands and Luxemburg founded during the World War II, concluded a bilateral treaty with Japan as condition for acceptance of Japan's accession to GATT.[9] In October 1964 the general non-application of the GATT was exchanged for approval of Japan's accession and bilateral agreement with Japan. In the bilateral agreement with Japan, a provision was included enabling measures against market disruption. Formally, the Benelux was the trade policy authority for the three countries in those cases in which the European Community had not yet received the mandate, i.e. bilateral relations between member states and Eastern Europe and Japan. However, if formal import restrictions were to be imposed, approval of the European Commission for measures against deflections of trade was required. That was a bad omen for any Benelux measure, an omen that was, neglected by Philips. The director of the Philips Canada organisation, later the

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[9] The Agreement on Commerce among Japan and the Kingdom of the Netherlands and the Belgo-Luxemburg Economic Union, which was signed on 8 October 1960; the Protocol Concerning Trade Relations between the Kingdom of the Netherlands and the Belgo-Luxemburg Economic Union on the one hand and Japan on the other hand, 30-04-1963:

1. If, in the view of either Contracting Party, there is reasonable evidence that, as a result of unforeseen developments, any product of the other Contracting Party is being imported into its territory under such conditions as to cause or threaten serious injury to its domestic producers of like or directly competitive products and that certain action is required to prevent or remedy such injury, it shall give to the other Contracting Party written notice to this effect with a reasonable explanation of the circumstances. The Contracting Parties shall, upon such notice, enter into consultations immediately for the purpose of finding a mutually satisfactory solution.
2. If the consultations referred to above do not result within a reasonable period of time in a mutually satisfactory solution, the importing Contracting Party may, in respect of the product in question, apply quantitative import restrictions to the extent and for such time as may be necessary to prevent or remedy the injury referred to in paragraph 1 above.
3. In critical circumstances where delay would cause damage which it would be difficult to repair, action under paragraph 2 above may be taken provisionally after the notice mentioned in paragraph 1 above has been given or before the consultations referred to in that paragraph are completed, provided that such consultations shall be continued in an endeavour to find a mutually satisfactory solution.

head of Philips' Bureau for International Economic Relations, had limited confidence in the route via the European Community. While in Canada he became solidly convinced, based on United States press, that the European Community and European Community's executive, the Commission, were lame ducks. Mistrust towards European solutions was also attributable to an analysis of existing European trade policy regulations, which did not provide a ready solution for the future. Territorial and product scope of protection sought were, consequently, rather limited; Japanese imports of audio and television into Benelux competed with Philips' products in Belgium and the Netherlands, the location of Philips' highest market shares and main production sites.

Philips started a mix of extensive and intensive lobbying, wining and dining and political pressure, in pursuit of protection against market disruption by Japanese competition. Some within the company detested the action as interfering with liberal principles, to which they either adhered or which they pretended to in order to be able to challenge the competence of the former director of the Canadian organisation, later the head of Philips' Bureau for International Economic Relations at headquarters. For various reasons, some within the company hoped that the efforts were futile, fearing Japanese retaliation. Philips exerted pressure on the governments of Belgium and the Netherlands as main authorities in the Benelux with competency –as the European Community had not yet effectively taken over this domain – for bilateral trade policy instruments with Japan. Philips' pressure resulted in the recommendation by the Dutch government, not too overtly supported by the Belgians, that Dutch and Belgian associations of metal and electrical industry would send a mission to Japan in order to negotiate an OMA with the Electronic Industry Association of Japan (EIAJ). As final threat, the use of a safeguard clause in the bilateral Benelux trade agreement with Japan by the Benelux was suggested. In high spirits, a small delegation chaired by the dynamic director of the Dutch federation of metal and electrical industry (FME), along with his Belgian companion of the Fabrimetal association, went to Japan.

Negotiations did not go well. The Benelux industry federations' leader was an energetic negotiator, but his energy was useless in discussions with tenacious, reluctant Japanese negotiators. The Japanese negotiators' tenacity, induced by the Benelux industry negotiators' indecisiveness or unwillingness about concessions, deflated the spirits of the Benelux industry negotiators. The EIAJ knew the liberal attitude of the Dutch government quite well and was confident that measures could be avoided. The Belgian partners in Benelux were often ridiculed by the Dutch because of their "protectionist" behaviour, and for Belgian concentration on industry, especially the steel and car industry and crystal and production of Philips consumer electronics, which contrasted sharply with Dutch trade interests and verbal concentration on Ricardian principles.[10] They also knew that the Benelux

[10] Dutch policies were characterised by deriding French trade policy, which was contemptuously coined "Colbertism". French policy was not as protectionist as the Dutch and others assumed. The French have an inclination to demand an extremely well balanced "tit for tat" or, in trade policy

could not undertake action against Japan without the approval or cooperation of the European Commission. Since 1968, the European Community was supposed to implement a common trade policy on behalf of the member-states. Consequently, Benelux's application of a bilateral safeguard clause was unfeasible without prior European Community permission. The Dutch, more than the Belgians, feared the possible repercussions of actions against imports from Japan. Any protective move could be met with retaliation by the Japanese, either by phyto-sanitary measures against Dutch agricultural exports, or by choice for another port than Rotterdam, as was regularly the Japanese threat. Dutch support for protective measures could create a liability to the French in terms of "protection equivalence". The French would demand, the Dutch feared, that Benelux support French protection in return for European Community support – what the French understood to be French approval and support of Benelux measures. The French could, for instance, ask for Dutch support of restrictions on Japanese cars, which coincided with a Belgian interest.[11] Another complication was that privately negotiated export limitations were formally considered a violation of European competition rules. Article 85 of the Rome Treaty prohibited agreements limiting trade between member states. A limitation of exports from Japan to the Benelux would automatically result in limitation of trade in Japanese products between member states and violate competition rules in the Rome Treaty.[12] Preference for private negotiations was explicable: private parties would run the risk of violation of Community rules and the Dutch government could wash its hands in innocence.

Not surprisingly the delegation of industry associations returned empty-handed. The Japanese had evaluated the situation quite well. Philips, under the inspiring leadership of its director for International Economic Relations with his American/ Canadian approach to matters, turned to the Benelux governments and increased its pressure. Helicopters were flown to Brussels to bring Belgian government representatives to Eindhoven for informative sessions, wining and dining. The pressure on The Hague increased as well, but in accordance with Dutch tradition, more soberly. The Benelux officials surrendered: a delegation of the three Benelux countries' officials paid a visit to Japan. Negotiations were expectedly unsuccessful; no progress whatsoever was made. The leader of the Benelux delegation announced that his delegation would not leave the room until he received a

language, "quid pro quo". Indignation about perceived trade barriers elsewhere are often the motivation for French trade actions.

[11] It is often forgotten that Belgium has been a major car assembling country. Car assembly in Dutch-speaking towns in Belgium comprised assembly of Renault Vilvoorde, General Motors in Antwerp and Ford in Genk and Volvo in Gand. Belgian Walloon crystal producer Val Saint-Lambert needed regularly protection. Dutch Philips had concentrated television production in the Flemish towns Bruges (television), in Louvain (tuners and amplifiers) and Hasselt (record players and cassette recorders) and in Dendermonde (loudspeakers), but there was hesitation to support this company in trade policy matters. The management of the Philips organisation in Belgium was predominantly French speaking. This inhibited the representation of Philips' interests in Belgium.

[12] Article 85 became Article 81 of the Consolidated Text after Maastricht and is Article 101 of the Treaty Establishing the European Community in Official Journal C 83/47 of 30.3.2010.

satisfactory response and both delegations, from Benelux and MITI. The negotiators spent one night in MITI, opposite each other at the negotiation table, but completely in silence. Sanitary needs required an interruption of the session. In the washing room, some civil servants agreed that the situation had become untenable. After some internal consultation in the Benelux delegation, the meeting was adjourned and after a subsequent meeting, the adjournment seemed eternal. The Benelux delegates returned depressed to their respective capitals.

To appease Philips, the biggest private employer in both the Netherlands and Belgium, the Benelux governments felt compelled to act. A second meeting at governmental level took place. Expectations of success were as low as the level of Benelux officials in attendance. But a miracle occurred. A Dutch official of lower rank who had claimed striking success in earlier negotiations headed the second Benelux delegation. Nobody had ever taken the trouble to verify his alleged successes. This time the delegation returned home with a wonder: a great success again. This chairman of the delegation announced that the Benelux had successfully concluded a "tacit voluntary self-restraint gentlemen's agreement" with MITI. The tacit and the gentleman-like nature of the agreement put it beyond all doubt; nobody could possibly discuss either its existence or its content. The advantage of the tacit nature of the agreement was that, as long as it remained tacit, the European Commission could not take action against it. Not even the threat of using the safeguard clause in the bilateral agreement between the Benelux with Japan was used.

The tacit agreement could not be subject of open discussion; therefore, everybody seemed content. Philips' pressure on the Dutch government ceased with the agreement, which satisfied the Dutch government. A tacit agreement seemed satisfactory to the European Commission. As long as it remained tacit, it was not an official barrier to internal trade in the European Community, and therefore it did not interfere with the Commission's competency in trade policy affairs. Since Philips thought it had an arrangement and now everybody in the company could return to work, Philips was also content. The Philips executive of international economic relations was extremely content. He needed some success after his stay in Canada. Because they had new ammunition for new animosity and for destruction of his position, his enemies at Philips were content. One of his assistants was so content that he jubilantly reported his triumph to his contacts at Philips in national sales organisations in member states of the European Community. A contact in the United Kingdom asked him to send – in view of their confidentiality – such highly sensitive reports to his home address. The assistant at Philips headquarters obeyed. A few months later it was found out that this careful recipient in the United Kingdom had joined Sony and thus Sony acquired information on Philips' interpretation of this "agreement". The Japanese were highly satisfied both on the fact that no tangible restrictions were agreed and about Sony's acquisition of information. As it turned out, there was not any negative effect on Japanese business and they could in several ways take advantage of such a "tacit gentlemen's agreement".

The Dutch civil servant triumphantly claiming success as chairman of the second Benelux governmental mission exploited the situation to its fullest. The fact that his colleagues did not know the content of the tacit arrangements did not impair, but rather strengthened his role. When his Belgian colleagues were asked for information about the agreement, they did not have the slightest notion what it entailed. Visits by Philips representatives to The Hague became a regular Canossa. The allegedly existing tacit voluntary gentlemen's export restraint required regular information for discussions with the Japanese embassy about imports into the Benelux and Japanese market share. Generally, such issues are discussed at the level of the economic attaché, who is the representative of the ministry of economic affairs of Japan, but the Dutch civil servant elevated the issues to a more suitable level – so he declared –, between him and the ambassador. Philips' audio and video product divisions and the Dutch Philips sales organization collected semi-annual market data. They had always been extremely careful not to reveal such data in view of Philips' market position that it was considered highly secret. Under the "tacit agreement", however, the details of Philips' and Japanese market shares were supplied to the Dutch civil servant, who subsequently provided them to the Japanese for discussions. On the basis of the figures provided, the civil servant declared the agreement highly effective. The figures on imports and market shares did not show a change in imports from Japan, but that phenomenon had no relationship with an agreement, regardless of whether it existed.

The Japanese market shares in the Benelux appeared similar to comparable countries. Japanese per segment audio market shares in the Benelux were equal to other open European economies, like the United Kingdom, Germany, Sweden and Denmark. Shares in the television markets were also similar. The latter phenomenon was related to the particular nature of the European television market, to which the Philips' external relations executive paid no attention.

The above matter requires an explanation. As explained before, France, also protected by its SECAM television system, and Italy, maintained quotas toward Japan and some other Far Eastern countries. Another reason was due to trade restrictive Phase Alternating Line (PAL) licences. The PAL television broadcasting and reception system was the main standard in use in Europe. Telefunken claimed the system as an invention, the patent holder of which was Telefunken's Dr. Bruch. The Interessengemeinschaft für Rundfunkschutzrechte (IGR) was created as a German industry platform for support to the system and for support in negotiations with potential licensees on conditions. With a view to possible exports to the United States as the most important part of the world market, Japan adopted the American TV system, called NTSC after the American National Television System Committee. It offered an inferior picture (therefore aliased Never Twice the Same Colour) with only 525 scan lines, as compared with the 625 lines of the PAL system, which contained improvements on NTSC, but NTSC offered an excellent export market to the Japanese. Telefunken imposed limitations on the licenses it granted to the Japanese. One condition of the license was an allowance to sell abroad a quantity of sets with a diagonal screen of 20 in. and above equal to the volume they sold in a domestic market. Japanese companies, of course, sold NTSC and not PAL sets on the domestic market. As a consequence, Japanese companies could not export large PAL screen sets to Europe. In the CTV introduction period Europe's main market, at least in Northern Europe, consisted mainly of sets of 20 in. and above, i.e. medium and large screen sets, and in France and Italy there were the QRs. Consequently, Japanese small PAL sets were the only colour television export article to Europe and their market share in television was limited to only a few per cent. The restrictions on Japanese exports in terms of screen sizes expired in 1981. For the Japanese this was too long a period. Industrial strategies of government and industry in the United Kingdom would be of great assistance, as Sect. 2.3 will show in more detail. The main consequence of these limitations was that if there were any restriction on Japan's exports to the Benelux by a voluntary restraint, its effect was not different from the situation in the United Kingdom, Germany, Denmark or Sweden, i.e. nil: quantities were naturally constrained by PAL licenses.

Trends in the audio business were quite different. Radios, allegedly covered by the Japanese restraint on exports to Benelux, had become old fashioned. Audio racks with separate components for reception – tuners –, amplifiers, record players and cassette decks accompanied by stereo loudspeaker boxes had replaced them. As a result, sales of radios dropped. It was not difficult for the Dutch civil servant to prove the success of his tacit agreement by a significant drop in imports of Japanese radios. Imports of portable radios and radio recorders from Japan had decreased, which he proudly attributed to effectiveness of the agreement. Cheap portable radios were no longer produced in Japan; rather, they were assembled by newly established Japanese subsidiaries in South East Asia not covered by any tacit agreement. During one of the Philips visits to the ministry – without the former director of the Canadian organisation, who had to find another job due to the success of his opponents in undermining his position – the civil servant recommended that the Board of Management of Philips write a letter to his minister expressing satisfaction about his handling of the matter. After reception of such a communication to his minister he would also, of course, maintain contact with the Japanese ambassador and keep the agreement effective at the prevailing appropriately high, satisfactory level.

That letter was never written. Philips' board of management could, of course, not write about tacit agreements. The "agreement", moreover, created some commercial complications. Philips' intention to import some up-market HiFi audio equipment from a relatively small Japanese producer of audio components and audio in Japan, Foster Electric Company, met some resistance. The producer mentioned "some voluntary restraint toward the Benelux" impeding exports to Philips. The equipment could easily have been shipped from Japan to Germany and re-exported to the Benelux, but Philips' advice to its purchasing officers was that only sales to those others than Philips could disrupt the Benelux market. The export limitation did not apply to products purchased by Philips. Since the agreement was tacit and its content was unknown, the interpretation was not open to discussion. The interpretation was accepted and the contract concluded. Philips' interpretation of the "tacit agreement" appeared the best approach, as test of its existence and content. The lack of response from Japan was a satisfactory aid to conclusions.

After one of the final visits to the ministry of economic affairs, as far as the subject of the tacit agreement was concerned, a discussion was arranged with the director of the pivotal civil servant. This director looked troubled and disappointed when he learned of doubts regarding the agreement. He showed some delight when he was informed that data on Japanese Benelux market shares were not different from other countries. He disclosed that he was generally satisfied with the state of affairs. He hoped that there would not be a ripple in the pond. He summarised the events: A civil servant discussed something in the corner of a meeting room in Tokyo. Irregularly, he allegedly phoned the Japanese ambassador regarding something about which nobody exactly knew. It was a formidable construction: a gentlemen's agreement about which nobody is supposed to speak, even if it did not exist. These were "The Emperor's New Clothes".

The "gentlemen's agreement" did not die, but quietly faded away. Whatever its status, it had become apparent that such a fragmented geographical approach in the European Community would not have any effect. European Community measures adopted on behalf of the entire European Community, based on the rule of law and formally published in the Official Journal of the European Community, and in this respect based especially on what were Articles 113–115 of the Rome Treaty, in the consolidated EC treaty of 2002 Articles 131–134 (now Article 207 of the European Union Treaty) were the only acceptable course. A serious roadblock, or rather, watershed, posed by the United Kingdom to a European-wide approach, was that it had engineered its own solution. That was an impediment to a solution attractive enough for the French and Italians to abandon their QRs in exchange for a European solution.

2.3 Voluntary Agreement on Suicide: Euthanasia of United Kingdom Consumer Electronics Industry

Partly due to trade limitations in Telefunken's PAL licenses, the fate of the European Community television industry was less gloomy than the United States'. Restrictions on exports in the PAL license required investments in production and domestic sales in a country with a PAL system.[13] The question for the Japanese was where to make such investments. Sony was quick in its decision and chose the United Kingdom, with Matsushita and other Japanese producers following soon afterwards. Already in 1972 the platform of the radio and television industry, Radio Industry Council (RIC), complained about imports from Japan. The Secretary of State for Trade and Industry advised business-to-business discussions between RIC and the Electronics Industry Association of Japan (EIAJ). These discussions

[13] Although informed about the need for Japanese investments as the consequence of the PAL licenses, some authors obstinately explained these investments by high customs duties (14 %) and voluntary restraint agreements (called "tariff jumping"). Tariff and VRAs did not represent a barrier at all, as is explained in this and some subsequent chapters. According to the data on Japanese domestic prices and dumping, in Chaps. 7 and 8, the Japanese were not superior in efficiency.

resulted in agreements, which allowed the Japanese the quantity of exports that they would have obtained without an agreement, i.e. 10 % of the market, which were all small screen sets.

The Labour Government of 1974–1979 appeared to help the Japanese by setting up a National Economic Development Council (NEDC), a sort of corporatist institution nicknamed NEDDY. It was a tri-lateral council in which industrialists, trade unions and government officials developed ideas about the future structure of the economy. A so-called NEDC Sector Working Party (SWP) on consumer electronics had a firm hand in the design of the United Kingdom television industry's extinction and served as the architect of a Trojan horse for Japanese consumer electronics in Europe. The SWP was tasked with the development of a strategy for competitiveness of the United Kingdom television industry. The chairman of the SWP and chairman of the British Radio Industry Council (RIC) and of the British Radio and Electronic Equipment Manufacturers' Association (BREMA) was the director of a formerly owned British company acquired by Philips, Pye of Cambridge Ltd. He held contempt for the new ownership and views other than British. He visited the Philips consumer electronics headquarters in Eindhoven, the Netherlands, certain he could convince Philips directors of the superiority of the British views by mere presence and speech. During a 4 h lunch with Philips directors in a restaurant near Philips' headquarters, he failed to convince the directors that the British views were superior. "You have not got a strategy," he stated and – as the lunch progressed – his tone became louder and the voice of British industry weaker.

The SWP adopted a recommendation by the Boston Consulting Group (BCG) of a minimum production volume of half a million CTVs, instead of the actual 100,000, for sustainability. The critical level of 500,000 units proposed by BCG might have helped, but – as the Japanese demonstrated – it was certainly neither a necessary nor sufficient condition for survival. It was based on the existing British production process. This minimum volume was applied to integrated production, including research and development, design of chassis and stuffing of printed circuit boards in the factory. Outsourcing of production – like stuffing of printed circuit boards, which could even have been organised collectively[14] – could improve cost effectiveness, but such a solution was too simple for the strategists, who did not want to abandon old established methods. With the exception of Sony, Japanese producers did not need to achieve BCG's minimum volume. Sony installed its own Trinitron colour tube factory in Wales, which required a scale of production, as recommended by the BCG, which investments were – in the framework of industrial conversion of coal mining areas in a European Community policy scheme – subsidised by the European Coals and Steel Community ECSC).[15]

[14] A condition for BREMA membership was that manufacturers stuffed boards in their production premises.

[15] The United Kingdom government was furious when the Netherlands, after an unexpected intervention from Philips at the Permanent Representation in Brussels, made a reservation – without prior

The SWP also signed the death warrant of United Kingdom industry by its recommendation that the "kernel of this strategy lies in improvements in the quality and supply of UK manufactured components."[16] The SWP's proposal was to promote an inflow of Japanese investments in order to improve quality of components. The theory was that since the Japanese set high standards of quality through their specifications, the quality of British components would thereby increase. The other idea of the SWP was for Japanese investors to replace existing capacity, rather replace it, with the exception for, of course, Sony and Matsushita, which had already established their subsidiaries.

Possibly ignorant of the peculiarities of the Japanese economic system – the subject of Chaps. 7 and 8 – and of Japanese interests, the SWP rendered extremely valuable services to Japanese manufacturers. The recommendation "*that* [United Kingdom] *companies should use their ownership of distribution channels as a positive force to accelerate the growth of new product markets while supporting UK production*" was of great help to eager Japanese producers. The distribution system was indeed characteristic of the British consumer electronics industry. Both the bad quality of consumer electronics manufactured in the United Kingdom, as admitted by the Sector Working Party of the NEDC, vicissitudes in the market as consequence of a recurrent "stop-go policy" of the British Government and consequential economic cycles with fluctuations of the Pound Sterling were main factors why this rental market developed in the United Kingdom. Consumption of rented television sets and other electronics gave stability in a cyclical market and consumers did not have to worry about service problems. Rentals soothed trade cycles, thereby diminishing dependence on income sensitive sales.[17] Cooperation with British industry through joint ventures offered the Japanese two windows of opportunity. They could overcome the PAL restrictions, and they got access to mass consumer rentals. Integrated production using European components was certainly not Japanese producers' objective, as the SWP hoped, as such a move did not offer a cost advantage. The Japanese were clearly going for production in the United Kingdom, but not on the same footing as British producers. Their main target was to overcome the PAL restrictions, not to incur additional costs by production integration instead of shipping key modules from Japan. The British government,

instruction from the Ministry in The Hague – for granting subsidies to Sony in Wales and requested postponement of the decision. The director of the EEC unit in the Ministry of Economic Affairs lamented that the British ambassador even visited the Ministry. He admitted that it was the first visit of the ambassador. Thanks to this intervention by Philips, the Ministry gained importance The approval for the subsidy was finally given: Assent No 33/81 given by the Council, pursuant to Article 56 (2) (a) of the ECSC Treaty, to enable the Commission to grant a conversion loan of £3.7 million (±6.11 million ECU), for redundant ECSC workers, to Sony (UK) Ltd., United Kingdom for a project in Bridgend, South Wales.

[16] National Economic Development Council: "Industrial Strategy: Electronics Consumer Goods Sector Working Party; Summary Note by the Chairman"; NEDC, 1 March 1979.

[17] Apart from the lack of technical reliability of their products, the stop-go policy of the United Kingdom government had as a corollary that fluctuations of the Pound Sterling prevented British producers from exporting to the continent.

embarking on a course of fatal trade policy moves, offered collateral help to the Japanese.

In 1977 the Labour Government unilaterally imposed quotas on monochrome – black and white – television sets from Taiwan. Since Taiwan had been outlawed in international trade by removal from the GATT as an observer after the People's Republic of China was admitted to the United Nations, unilaterally imposed quotas had become legally possible.[18] The Republic of Korea was also hit by a quantitative restriction to 35,000 sets per year during 1977 and 1978 − a move that the European Community defended in the GATT, but was generally criticised and condemned by a great number of GATT members and, consequently, had to be abandoned.[19] Restriction of imports of monochrome televisions was not exactly an act by which vital interests of British industry were served, but this signal endorsed further negotiations on industry-to-industry level. The RIC subsequently concluded VERs on colour television with these countries, Japan and tried to do so with Singapore. As it appeared, by their presence in the United Kingdom, Japanese manufacturers first and foremost benefited from these deals.

Sony and Matsushita established themselves in Wales in 1974 and 1976, while a number of other Japanese manufacturers followed shortly thereafter, using opportunities offered by the United Kingdom industry of joint ventures recommended by SWP strategists. Their new home market, the United Kingdom, offered protection against low wage CTV imports from Taiwan and Korea, to which the VERs with the industry of these countries negotiated by the RIC contributed. The RIC rendered also services to the Japanese during negotiations on VRAs by providing them with forecasts for the United Kingdom market. The restriction of Japanese exporters to 10 % of the United Kingdom market was not a sacrifice. It was in accordance with normal small screen exports to any country in the European Community, except France and Italy. For additional and larger screen sales in the United Kingdom and exports to other countries, including PAL countries, they needed production facilities in the United Kingdom. Consequently, the Japanese received highly beneficial treatment. The RIC both supplied market forecasts and protection of the United Kingdom CTV market – a highly attractive business climate for Japanese investors – enhanced by the United Kingdom industry's eagerness for joint ventures. The government subsidized Japanese investments. The NEDC suggested that new investment only be allowed if old capacity was replaced. The Japanese industry cleverly understood this brilliant recommendation.

[18] The observer status of the Republic of China (Taiwan) ended in November 1971.

[19] The Council of GATT discussed the in March 1978 concerning the EEC's invocation of Article XIX with respect to the imposition of import restrictions on monochrome television sets imported into the United Kingdom from Korea. All contracting parties condemned the move. GATT document C/M/124 p. 19. The 1978 Secretariat Note on "Modalities of Application of Article XIX" states "This case is the only one in the history of the GATT in which Article XIX action has unilaterally been taken on a discriminatory basis with regard to a single source of supply in a transparent manner." (L/4679, p.14). The EEC action was revoked after conclusion of a voluntary export restraint arrangement as from 22 June 1979; C/M/134, L/4613/Add.1.

Toshiba started a (30 %) joint venture (of £10 million, subsidized by the United Kingdom Government to the tune of 1.9 million pounds) with Rank (70 %, with brands Rank Arena, Bush and Murphy), and Hitachi set up a 50/50 joint with GEC. With these agreements, both Japanese companies gained access to the unrestricted PAL licenses of their partners and to their distribution networks – the Rank rental network was a strong asset. Once the Japanese obtained access to the United Kingdom market, the United Kingdom partners were no longer needed. Soon Toshiba and Rank experienced differences of opinion about, inter alia, the supply and especially quality and supply prices of certain components from Japan, which Rank wanted partly to purchase in the United Kingdom (the new 110° 30 AX tube from Philips' subsidiary Mullard) in accordance with SWP strategy. Buying European components in accordance with its partner's wishes was clearly not in Toshiba's components interests. Because technical management was contractually designated to Toshiba, the Japanese side made designs demanding Japanese components. This was against the intentions of the European partner. The situation soon became intolerable and Rank left the joint venture.[20] Toshiba subsequently closed three factories and reduced the workforce from 2,600 to 300 people, pointing at mere assembly rather than integrated United Kingdom production. The rationalisation reduced manufacturing to final assembly of simple modules shipped from Japan, while European-produced tubes supplied by Mullard/Phillips were used in order to achieve sufficient European content for compliance with the origin rules for access to the French and Italian markets.

The situation between Hitachi and GEC, another joint venture formed in 1978 subsidised by the United Kingdom government, was not very different. The Japanese engineers at the joint venture wanted at least 1 year's notice in the event GEC desired a European component. Moreover, the factory incurred losses, whereas Hitachi made a profit on components used in the joint venture and imported from its factories in Japan and South East Asia. Mitsubishi made the cheapest capital investment. It took over Norwegian Tandberg's factory in Haddington, East Lothian in Scotland, including the PAL license. Despite the assumptions by the Boston Consulting Group on minimum requirements for volume of production, Hitachi and Mitsubishi produced no more than 350,000 sets. In 1979 Hitachi announced it would consider colour television tube manufacturing in the United Kingdom. Philips' components subsidiary in the United Kingdom, Mullard, panicked. Its director Jack Akerman hired a parliamentarian consultancy group, which he joined immediately after his impending retirement, for lobbying in the House of Commons against this danger. In view of Hitachi's maximum television production attained in the United Kingdom, it was highly improbable that it ever envisaged making this investment. Hitachi planners must have known Thorn's sad experience with tube production. Due to the "Trinitron" tube technology, Sony needed tube investments and created a capacity of 500,000 sets and a picture tube capacity of

[20] Geddes (1991) has sketched this story of the demise of British industry, but presented it as a victory of strategy.

700,000 units in Wales. Sony's sales in Europe were about 800,000 in 1988.[21] To fulfil European origin rules, other Japanese producers purchased European tubes, mainly from Philips. Matsushita acquired the tube factory of SEL/ITT from NOKIA when this company stopped its consumer electronics activities in Finland, Germany, Spain and France in 1996, concentrating completely on mobile telephones. It also acquired some of the television production capacity from Nokia, which increased its total production in the European Community to a more impressive level of more than 1.2 million units in total. The purchase of the tube assets from Nokia did not produce much benefit. Within less than 10 years, flat screens replaced cathode ray tubes.

Component sourcing by Japanese manufacturers, naturally, remained a constant source of dispute between the RIC, which was practically formed by BREMA, and the EIAJ during their annual talks. According to the Japanese, European components inadequate in quality. Even in 1988, the low level of components sourcing by Japanese manufacturers was a source of discontent. In addition to prices, quality was again alleged to be the main problem. There was only one colour picture tube factory in the United Kingdom (Philips' subsidiary Mullard) and the Japanese claimed Mullard's prices were too high and tube quality too low; they added that they wanted to see an alternative local source. In 1991, only 15 % of total Japanese electronic components demand – not limited to colour television sets – was supplied by British industry.

The disadvantage of local European supplies to Japanese producers was self-evident. It did not contribute to cost advantage by volume of production. The market share of the Japanese in the United Kingdom peaked at 47 % in 1996. In 2001, the level of Japanese market share in the United Kingdom, including imports from South East Asia and Japan and United Kingdom production, dropped to 24 %.[22] The devastative behaviour by Turkey that caused this fall is discussed in Chap. 11.

In any case, the SWP was wrong in its expectation that the new joint ventures and other production of the Japanese should and would exceed half a million units in order to be viable. Table 2.2 shows that there was only 1 year in which Toshiba's manufacturing exceeded a production quantity of 0.5 million that was deemed the vital minimum. Others in the United Kingdom, except of course Sony, remained below the critical production volume. A necessary minimum volume was fully dependent on the production structure. If all major components were imported as

[21] The Japanese estimate of their production in the EEC was about 3.19 million colour television sets in 1989, or about 15 % of the European market (together with imports the total approaches 30 % of the market). Sony U.K. was supposed to produce 0.63 million (1989 figures; sources: data made available by Mr. Henri Anus, Directeur-Général Délegué of the French consumer electronics association Simavelec, partly from press cuttings); Matsushita (U.K.) 0.48 million, Hitachi (U.K.) 0.18 million, Mitsubishi (U.K.) 0.23 million, Toshiba (U.K.) 0.39 million, Sanyo (U.K.) 0.18 million. With the exception of Sony, production runs remained far below the critical level of the British Sector Working Party.

[22] From the market research company GfK (survey on October /November 1999).

Table 2.2 European production of CTVs by Japanese producers, compared with three Europeans

Years 1990–2000	Maximum units × 1,000	Year of maximum	Minimum units × 1,000	Year of minimum
Hitachi UK	360	1995	279	1992
Mitsubishi UK	378	1991	262	1992
Matsushita[a]	1,210	1996	432	1992
Sony[b]	3,525	1997	1,645	1992
JVC UK	385	1998	131	1992
Sanyo (Spain)	540	1991	263	1996
Sharp (Spain)	985	1998	324	1993
Toshiba UK	631	1998	480	1992
Total Japanese production in Europe	8,014		3,816	
Grundig	2,921	1991	2,155	1996
Philips	3,797	1991	2,544	1998
Thomson	1,968	1991	1,053	1998
Total production in community	21,308	1995	15,871	1992
Japanese share in production	38 %		24 %	
Three Europeans' share	41 %		36 %	

[a]Various factories in the United Kingdom, Germany and later Czech Republic
[b]Various factories in the United Kingdom, Spain and later in Slovakia

chassis and kits – modules that can be assembled with little added value –, the maximum quantity can be substantially lower. Proof of this is the presence of Tatung in the United Kingdom. After the Radio Industry Council's VER with Taiwan, Tatung moved to the United Kingdom. Its production was between 100,000 and 200,000. The NEDC's SWP clearly used a wrong starting point of unchanged production technology, which was in accordance with the Boston Consulting Group that had based its recommendation on past deplorable experience in the United Kingdom. The vicissitudes of interest rates and Pound Sterling and adherence to obsolete manufacturing methods were the main handicaps of the United Kingdom industry.

French and Italian QRs, combined with the special origin rules for television, PAL conditions and the existence of preferential trade agreements between EEC and EFTA, with their preferential origin rules, were obstacles to Japan's direct exports to Europe and were stimulus for investments in the United Kingdom rather than a 14 % customs tariff and Japan's voluntary export restraint. Preferential access to EFTA (Portugal until 1986; Austria, Sweden and Finland until 1995; Norway, Iceland, Switzerland and Liechtenstein) with preferential origin rules requiring a European added value of 60 % was an additional reason for investment in Europe.[23] The issue of origin rules is discussed in Chap. 12.

[23] Some authors explained Japanese investments in the United Kingdom by United Kingdom protection and the high 14 % customs duty. This is evidently incorrect. Although informed about

In 1979 Philips, Hitachi and Sony in Singapore were summoned by the RIC to reduce their competition with Japanese and remaining producers in the United Kingdom by a voluntary limitation of their small screen or tiny vision CTV exports. After several threats of quantitative restrictions, BREMA forced the Singapore association of manufacturers to discuss the matter at the negotiation table with the more formal RIC. A problem for Philips was that, in order to avoid quantitative restrictions in South Europe toward Taiwan, it had moved its production of small screen sets to Singapore. No Southern European countries imposed quotas on exports from Singapore subsequent to gaining independence. From Singapore, Philips supplied the European Community market, including the United Kingdom. Other Singapore producers, Hitachi and Sony, both producing small screen sets and tubes for the European market, were not inclined to limit their exports because it required them to reduce capacity in Singapore and increase in the United Kingdom. Bernard Lap, the president of Philips' Singapore organisation, wondered how he could thwart BREMA initiatives. The Philips headquarters concluded that the United Kingdom solutions were detrimental to its industry and to European industry in general and that the Japanese in the United Kingdom were the only party to benefit from these restraints. Frustration of the United Kingdom scheme was inevitable. The solution was rather simple:

1. Since the United Kingdom's objective was a gentlemen's agreement, it was practical to send Chinese citizens of Singapore to the meeting to ask for information about what comprised a "gentlemen's agreement". British disdain would be a sufficient impediment to treating the Chinese as peers and gentlemen.
2. The Singapore side should stress that the basic interest of the industry was not limitation, but production and export, and that it did not have the authority to limit exports.
3. If, however, an agreement should be concluded, its terms must be indisputable so that discussions about interpretations would be ruled out.
4. In order to make the gentlemen's agreement watertight, it should be written and signed.

The last point was decisive for frustration of a "gentlemen's agreement" or an agreement in general. The limitation of exports to the European market was a violation of the anti-cartel policies of the European Community. The Commission published a warning that such agreements, by which inter-state trade was impeded, were in violation of European Community legislation. A written agreement would offer evidence on violation of European Community policy. In BREMA's minutes of the meeting, a supercilious remark was made that the Singapore side was unable to understand gentlemen's agreements, therefore, also unable to conclude such an

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these backgrounds of Japanese investments, Belderbos (1994), for instance, stuck to this explanation for tariff jumping because it fit his theory that "tariff jumping" was the explanation for these investments. In the meanwhile he inevitably assumed – it was merely an assumption without evidence – that Japanese producers were more efficient than European producers. Section 8.10 of Chap. 8, the Tosoh, shows that this assumption is misleading.

agreement, apart from the lack of representativeness. Subsequently, BREMA put pressure on the Philips United Kingdom to insist on moderation of imports from Singapore. Philips United Kingdom accepted the self-restraint on the condition that any reduction of imports from Singapore would result in a commensurate decrease of a total Singapore export ceiling. The objective was to prevent other Singapore producers abusing the reduction. In the meantime, Philips commenced small screen television production in Bruges, Belgium. Philips United Kingdom could simply comply with the wishes of BREMA. The Philips gesture was void and made BREMA aware that a national road towards a trade policy solution was unsuccessful.

After inward investments and failed Japanese-United Kingdom joint ventures, Japanese production of about 2.8 million sets had crushed all indigenous manufacturing. Rank, GEC, Rediffusion and Fidelity disappeared very quickly. A few years later, Thomson of France acquired Ferguson from Thorn EMI and closed the factory near London and abandoned its brand after a drastic brand rationalisation. All VERs and attraction of inward investments resulted in the replacement of local production with United Kingdom R&D, and chassis design by mere assembly by Japanese manufacturers. New entries, inter alia, of Sinclair for pocketsize colour television sets, failed. Spectra, not a member of the BREMA, because of criteria for membership that the producer crams printed circuit boards with components from the United Kingdom, disappeared. Its last convulsion was a very weird policy of importing Chinese workers during their "holidays", letting them assemble CTVs in the United Kingdom for a month, and to then replace them with other Chinese workers.

The United Kingdom industry hoped to improve its position at the cost of continental producers by a "grand" strategy, which proved irrational. It became clear that the European Community had the trade policy competence. The European Electronic Components Manufacturers Association (EECA) took initiative and made a demarche with the European Commission, warning of Japanese inroads. Commissioner Étienne Davignon did not want discussions with tube producers without the presence of their customers, the television industry. He summoned a common platform of the industry. Since the television industry might easily perceive tube actions against Japan as actions against interests of European industry, such a common platform would be indispensable. For the same reason an anti-dumping case against Japan was rejected by tube producers. Standard Electric Lorenz (SEL, subsidiary of ITT) imported glass parts – screens and necks or panels and funnels – from Nippon Electric Glass (NEG, a subsidiary of NEC), for its tube production in Esslingen (Germany). Price information offered evidence for a dumping complaint. The EECA, however, decided that it was not proper to attempt a dumping complaint, which would frighten the television industry. The CTV and tube industry started a lobby with the European Community authorities. The foundation of the European Association of Consumer Electronics Manufacturers (EACEM) in 1978 was supported by BREMA. The Japanese in the United Kingdom preferred BREMA's participation in an association at the European level. It would offer BREMA the possibility of insight of events in Europe. The chairman of BREMA, Ferguson's director Richard E. Norman, was honoured with the impossible task of subtly balancing Ferguson's interest of survival and BREMA's majority membership, i.e. the Japanese interest, which was the blocking of anti-Japanese measures. Richard Norman both succeeded and failed. Several measures were taken, but he did not play an active role.

2.4 Video Recorders: Informal Peace to a Format War

Not long after worldwide acceptance and introduction of its compact audiocassette format, which it freely licensed and which received worldwide acceptance as audiotape format, Philips announced its invention of the Video Cassette Recorder (VCR). This invention was made public in 1964. This was too early and long before introduction of colour television in Europe and long before CTV penetration was sufficient for mass sales of VCRs.[24] The early announcement and display of the product offered an opportunity for copying the product and developing it. Just as with the audiocassette recorder, Philips hoped to establish a global format for VCRs. The international climate had changed, however. The advantage of Philips over competitors decreased with passage of time that was spent with attempts to persuade competitors to accept Philips or common format. Sony profitably started to sell recorders for professional use. Sony was aware that its position in the Japanese consumer market and abroad was insufficient for setting of a standard for consumer purposes. It tried to convince its Japanese competitors, Matsushita and its daughter JVC, Victor Corporation of Japan, as early as 1974, to adopt its product as the standard. In a conversation in 1993, a chief economic journalist of Nihon Keizai Shimbun revealed that, in order to create a Japanese VCR format, MITI had in 1976 organised a conference of bureaucrats, industrialists and invitees, inter alia from the press, with the objective of establishing one single Japanese VCR format that should by its massive support force foreigners, including Philips, to accept the Japanese standard. Since Sony's Betamax, both for reasons of technical quality and of its stage of commercialisation, offered prospects superior to those of the JVC/Matsushita's Video Home System (VHS) format, the proposal was to push Betamax. Of course, Matsushita and its daughter, JVC, patent holder of VHS, opposed the proposal.[25] Matsushita's superiority to Sony both in the Japanese consumer market power and in presence in the United States convinced Japan's biggest consumer electronics producer that its format would win a battle, provided that other Japanese majors would support the VHS format. Toshiba – belonging to

[24] Philips Annual Report on 1964.

[25] Matsushita (http://www.fundinguniverse.com/company-histories/Matsushita-Electric-Industrial-Co-Ltd-Company-History.html) claimed that Sony was not prepared to share its Betamax technology with others: "Sony refused to share its Betamax VCR technology with other manufacturers. But Matsushita knew that despite its VCR monopoly, Sony had a limited VCR production capacity."

the powerful Mitsui grouping of companies, keiretsu, and the biggest and oldest of the major electronic groups – felt compromised in its general industrial leadership and, consequently, obstructed the government initiative. It gave preference to the VHS system; thereby tipping the scale in favour of Matsushita. Primacy of Sony's Betamax system as a standard, pushed by MITI, would upset Japan's industrial hierarchy.[26] It would give Sony, with its lead in VCR production, an undue industrial advantage over its rivals that were substantially stronger in the Japanese consumer electrical appliances market (see Chap. 7). MITI's efforts to establish a common Japanese standard on the basis of Betamax clearly failed, for JVC showed that "*it had formed alliances with major manufacturers … and, very humbly, trotted out its political allies: Matsushita, Hitachi, Mitsubishi, and Sharp...*"[27] This intervention by MITI aiming at elimination of Philips failed because finally both Philips' format and Betamax would be eliminated due to certain market circumstances explained below and in Chaps. 7 and 8.

How differently acted the European Commission in 1977! It prohibited a standardisation agreement on Video 2000 (V2000) standardisation between Philips and Blaupunkt, Bosch-Siemens, Grundig, Loewe Opta, Nordmende, and SABA. The grounds under which it prohibited the standardisation agreement were that Philips' market share was too large and alternative videocassettes and recorders and participants would not make competitive formats available to consumers:[28]

> *Philips has a pre-eminent position in the European market for videocassette recorders. Its market share is considerably larger than that of Sony, its nearest competitor. The two together account for more than 70 % of total sales in the common market. Since this is a relatively new product, there are no official production and sales statistics available for the European Communities. Estimated sales of videocassette recorders in the EEC totalled 34 500 in 1974, 41 000 in 1975, and the upward trend continued in 1976.*
>
> *Moreover consumers were not allowed a fair share of the resulting benefits. For the agreement denied them the opportunity to buy videocassettes or videocassette recorders of a different system from any of the parties.*

Thus, ignorant of developments elsewhere, the European Commission sentenced the V2000 format on basis of lack of data and on assumptions, and contributed to destruction of the format. A decade later consumers did not have a choice at all, partly due to this decision and to trade policy events reported below, but mainly because of lack of competition in the market of the exporters in Japan – as Chaps. 7 and 8 show. Restriction of competition abroad had the opposite effect of what the European Commission wanted: "to buy videocassettes or videocassette recorder of a different system".

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[26] Nayak, and Ketteringham (1986, pp. 36–37).

[27] Nayak and Ketteringham (1986, p. 43).

[28] European Commission Decision of 20 December 1977 relating to a proceeding under Article 85 of the EEC Treaty (IV/29.151 – videocassette recorder, OJ L 047, 18/02/1978, 42–47).

In 1975, Sony launched its Betamax consumer video recorder application, first mainly in Japan, later in the United States and Europe. Its total number of sets produced in that first year was 119,000,[29] almost four times total sales by all producers in the European Community. The picture was of reasonable quality and it sold well in the three markets, but Sony's potential was too small compared with the marketing power of its big and powerful Japanese rivals. Production volume, supported by destructive dumped export prices, finally appeared decisive when the alliance of the big producers had agreed on adoption of VHS and gained the upper hand with their overwhelming domestic position in the consumer market. The major rivals to Sony held a natural share in the Japanese market of 85 %; of which Matsushita represented 25 % (see Chap. 7). When the attractiveness of video recorders to consumers in Japan's domestic market became apparent, Sony lost the battle domestically. Its major Japanese opponents finalised Sony's role both domestically and abroad by distribution clout and dumping abroad.

Some economists and journalists depict the outcome of the format war, the dumping complaint lodged by European industry and the ensuing voluntary restraint agreement as either a weakness or a trick of European industry to deprive consumers of their money. The VCR format war in the 1980s was certainly the opposite of a victorious outcome of normal industrial competition.[30] Kenichi Ohmae referred to the result of this conflict as an example of keen, strategic marketing, using the Triad or three main markets, by the winner, Matsushita Electrical Industrial (in 2008 re-baptised Panasonic) with its daughter JVC.[31] It was essentially a fight, however, decided in Japan, about a standard achieved not through co-operation or consultation but by a trade war, in which distribution power in Japan and the destructive weapon of dumping were decisive. The defence against the assaults was not a consumer-hostile trick of European industry, nor was it policy considerations of the European Community, nor even a purely commercial triad that was decisive in this game: instead, decisions about the outcome of the struggle were made in Japan and were attributable to special conditions in Japan. The concept of Triad is biased, and based on the conviction that the three main markets are equally accessible. They are not, as Chap. 7 makes clear.[32]

Two incidents in 1982, often referred to since, manifested themselves as the first overt and fundamental conflict in electronics trade between the European Community and Japan. The first was Poitiers, often denounced or recommended as a most imaginative trade barrier, which at least aroused some admiration on the part of Mr. Akio Morita, Chief Executive Officer and Chairman of Sony.[33] The second incident, which immediately followed Poitiers, was the draft and submission of a

[29] Japan's Bureau of Statistics.

[30] Particularly Brian Hindley has been active to prove it, even to calculate the losses to the consumer in Greenaway and Hindley (1985) and Hindley (1986).

[31] Ohmae (1985, pp. 58–59).

[32] That they are not is generally eliminated from considerations.

[33] Morita (1986), p. 261.

dumping complaint by two European producers of VCRs of the Video 2000 format, Grundig and Philips.

French policy caused the first incident. After its establishment in 1981, the socialist government in France formulated a new electronics policy in the "Plan d'Action Filière Electronique", published in March 1982. Since 1981, the policy was to re-launch the French consumer electronics industry.[34] There was clearly no collective view on the strategy. The boss of Thomson Grand Public (later called Thomson Consumer Electronics, TCE) Jacques Fayard, was a particularly fierce adversary of Philips and wanted Thomson Grand Public to acquire its own technology, independently from TCE's Dutch competitor. Fayard detested the Dutch company and particularly its strength in France, where it had obtained a share of about 50 % in the television market, which, in order to avoid too evident a market omnipresence, required use of three brands: Philips, Schneider and Radiola. Fayard repeatedly expressed his dislike of the successful chairman of Philips France, Jurazinski, by imitating the accent of this Philips executive of Polish descent during meetings of the European Association of Consumer Electronics Manufacturers, over which he presided for a few years. Fayard's rival in Thomson Brandt, Abel Farnoux, the long-time director of Thomson's Videocolor television tubes manufacturing division in Italian Anagni, who left Thomson in 1980 and was author of the electronics industry policy (Filière Electronique) plan, adhered strongly to European cooperation, which implied collaboration with Philips. The boss of Philips France, Jurazinski, had in vain tried to persuade Thomson to industrial cooperation. Although he masterminded the general policy framework, Farnoux could not force Thomson into the direction of cooperation by TCE with Philips and Grundig.[35] One year later, nationalisation of Thomson took place. It was Thomson's plan to join the venture between VHS patent holder and Matsushita Panasonic daughter JVC with Thorn EMI, the parent of CTV producer Ferguson, and German Telefunken. This joint venture, called J2T, started production in New Haven and Berlin. Later, Thomson joined it and became the single partner of JVC, after having taken over Telefunken and Thorn EMI's Ferguson with state finances. After reunification of Germany, the special financial assistance to production in Berlin was discontinued and Thomson left Berlin and its partner JVC and moved to Singapore for VCR production with Toshiba.

On 22 October 1982, the new French government of Mitterand announced the imposition of a luxury tax of Ff 471 (about €72) per unit. Customs clearance of imported VCRs was to take place in the town of Poitiers. Date and place were derived from history. The Moors had moved northeast across the Pyrenees Mountains but were defeated by the Frank king, Charles Martel, in the Battle of Poitiers in 732 A.D. The Customs Cooperation country code for Japan is 732 and the decision was made 1250 years after the battle and victory at Poitiers. Three issues induced the customs clearance and tax collection measure. The first, and least

[34] Commission of the European Communities, 21-4-1985, TF-2, p. 49.

[35] Quatrepoint (1984, pp. 31–41).

important, was the deficit on the budget of the French state, which amounted Ff 93 billion. Consequently, the luxury tax was about 0.3 % of this deficit and hardly offered solace. A second reason was that France was annoyed by the lack of the European Community's trade policy toward Japan.[36] The third issue concerned industrial policy. About 550,000 (85 % of total sales in the country) Japanese VCRs were sold in 1982 in France, an influx – as the French government feared – that thwarted France's ambition of hosting a video recorder industry. Philips had a site in Le Mans, where VCRs were assembled from key components made in Austria. Thomson was aware that VCR offered new opportunities in the market and had ambition to become a video producer. By forcing cooperation with the Japanese owner of the VHS license, it could become a European VCR player. Imports from Japan would also, although marginally, increase France's €14 billion foreign trade deficit.

The Council of Ministers frequently and extensively discussed which trade policy the EEC should conduct towards Japan. Northern countries – such as Germany, the Netherlands and Denmark – refused to take action both against imports from Japan and against non-tariff barriers in Japan. The French felt, apart from own industry strategies, the need for a European Community posture and action towards Japan. And it thought that by its one-sided action it might lure those other European Community member states into a common European approach toward Japan. Trade minister Michel Jobert suggested establishing the customs clearance on the Puy de Dôme, but Finance and Economics minister Laurent Fabius did not consult Jobert and highhandedly designated Poitiers as customs clearance site. The public appreciated the minister's move. In France history education is an important part of civil life and culture. The place of customs clearance with its symbolic fringe raised Fabius' popularity. It is remarkable that not the Minister of Finance, but French External Trade Minister announced the customs clearance and a tax collection through Poitiers. Finance Minister Fabius had invented the move, but Jobert's ambition and the wish to make the tax collection a trade policy signal became decisive.

The order had its intended effect: more than 60,000 video recorders were now backed up awaiting customs clearance, and only 22,000 of the 200,000 recorders ordered for the holiday season were expected to make it in time to store shelves. Imports of VCRs, a total of 550,000 in total 1982 fell to about 300 a day, or 110,000 on an annual basis.[37] Tokyo initially expressed "regret" only, but its reaction created worries for the European Commission.

The European Commission's Internal Market and Industry Commissioner Étienne Viscount Davignon responded quickly and assumed responsibility for a way out of the embarrassing situation. His colleague of External Relations should

[36] Precise description has been given by Klousen (1986), based on data from Trade Minister, Michel Jobert.

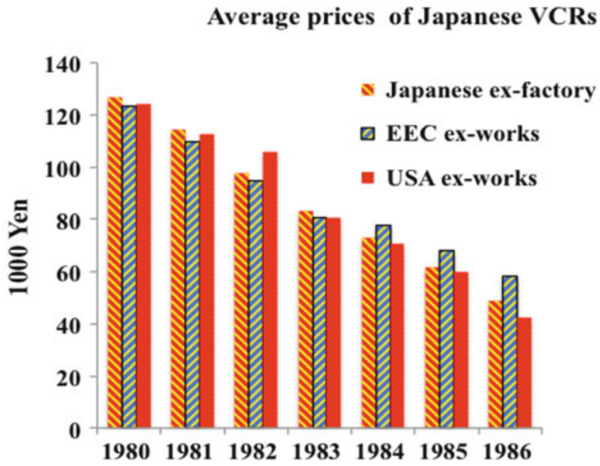
[37] Agence Européenne d'Informations: "EEC – Japan – United States: World Traders in Conflict"; Brussels: 1983, p. 122.

have solved the inconsistency of the collection of taxes in Poitiers and designation of this town as customs clearance point with the General Agreement on Tariffs and Trade (GATT). Japan announced a protest in the GATT against this nullification or impairment (Article XXIII of GATT[38]) against the creation of customs point of entry with too small capacity of handling the imports, a violation of Article IX of GATT (concerning customs treatment of imports). According to the Japanese, imports into France fell from 53,013 sets during the month of August, according to French statistics to 14,500 sets during the period 22 October – 7 November, and to 900 sets during the period 8 November – 30 November 30 (the latter two figures are Japanese statistics). Although Wilhelm Haferkamp, as Commissioner for External Relations, had the competence to deal internationally with the matter, he lacked the stature to tackle the issue.

European Commission vice-president Davignon, responsible for internal market and consequently for the solution of the internal market inconsistency of Poitiers' designation as customs point with the free common market (Article 30 of the Rome Treaty; 28 of the European Union Treaty), saw a chance both to tackle the problem of the Poitiers internal trade barrier and to establish a common European Community trade policy, latter of which was Haferkamp's domain. The need for a common policy was self-evident in view of individual member states' efforts to wipe their own street. German Minister Graf Lambsdorf, for instance, arranged a tacit gentlemen's "agreement" with the Japanese on export restraints of passenger cars.[39] Since every member state arranged its own affairs, the European Community as a whole remained powerless. Commission vice-president Davignon phoned the president of Philips Electronics and asked him whether Philips could lodge an anti-dumping complaint against Japanese VCRs. Philips could. Without informing anybody that they would visit Brussels, a representative of Philips and the young, new President of Grundig, Horst Rosenbaum, and Director Beseler of the anti-dumping division, held a meeting in the Berlaymont Commission building. During this session, the Japanese ambassador to the EEC phoned and asked what the industry representatives, Messrs Rosenbaum and the Philips representative, whose name he also mentioned, had decided. The Brussels offices of the Japan Association of Machinery Exporters (JMEA), a private branch of MITI, in the Rue Copernic offered a direct and clear view on Mr. Beseler's room in the Berlaymont building. Within a week a dumping complaint was finalised and lodged by an association specially created for the occasion, Association of Firms with a Common Interest in Video 2000, actually Grundig and Philips. The complaint was lodged on

[38] On 21 December 1982, it launched its protest against the practice in GATT (L/5427) "European Economic Communities – Import Restrictive Measures on video tape recorders Recourse to Article XXIII:1 by Japan"; practically simultaneously the Community opened an anti-dumping investigation against Japanese video recorders.

[39] This became apparent during discussions with the minister about a proposed increased of customs duty on CD players, but must also have been known by Viscount Davignon, who dealt with French anger on such betrayal.



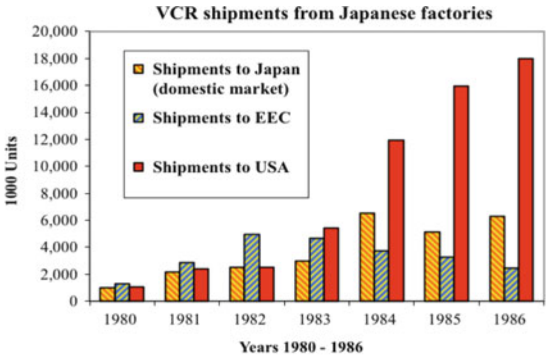
Graph 2.1 Average VCR shipment prices (in 1,000 Yen) (*Sources*: Japan Tariff Association (JTA). Brian Hindley (1986) used similar figures, comparing United States and European average prices only, concluding that after 1982 Europe had a welfare loss because prices rose compared with the United States. Hindley doubts whether there was dumping. How he would explain price differences between Japan and the United States and between Japan and the EEC prior to 1982 is difficult to guess; Japan Tariff Association; Statistics Bureau; Electronic Industry Association of Japan (EIAJ))

5 December 1982 and before Christmas it was published in the Official Journal of the European Economic Community. That was the second incident.

There was solid ground for an anti-dumping complaint. Striking commercial events had taken place in 1982. Average cost of manufacturing of VCRs in Japan was higher than the export price, as data in Graph 2.1 show. Dumping was evident. In 1980 and 1981 average manufacturing costs – that means ex-factory costs without cost of sales and without general and administrative costs and profit – were higher than export prices including these costs to the United States and Europe. Because Japanese ex-works prices were structurally higher in that period than export prices, it could be concluded that Japanese dumping – defined as sales of similar or like products in export markets at a lower price level than normal value, which is generally the price in the domestic market – has taken place in the United States. The same applied to export to the EEC until 1982.[40] But the definition of dumping is not associated with average prices. A comparison should be made between normal value and export price on a product-by-product basis. The picture shows that, prima facie, the United States consumer was better off than the Japanese consumer, while the European consumer superficially seems to have suffered from higher prices after 1983, for which phenomenon an easy explanation is given below. In any case European prices were – ex-works including overheads and selling costs – substantially lower than the ex-factory prices without selling,

[40] According to the definition in Article VI of the General Agreement on Tariffs and Trade.

Graph 2.2 First a blow in Europe (*Sources:* EIAJ, Japan Tariff Association)



general and administrative costs for deliveries within Japan, which amount normally between 15 % and 25 % on top of the ex-factory costs.

Graph 2.1 requires an explanation. It shows per year in the left column the average *ex-factory price* of Japanese production, the middle column is FOB export price to the EEC including manufacturing costs, cost of sales and general costs normally borne by an exporter (*ex-works price*). Per year the right hand column shows the FOB export price to the United States on the same basis. That means that average cost of manufacturing, i.e. the left column, which excludes sales, general and administrative cost and profits, is higher than the average export price including such selling, general and administrative costs, to Europe in the period 1980–1983 (included) and to the United States for the whole period covered in Graph 2.1. Cost of manufacturing for 3 years was higher than export sales price to the EEC and continuously to the United States. This implies that sales at a loss on exports and – since the Japanese majors made profits – at very high prices in Japan took place. Various Japanese must have incurred severe losses on their sales abroad.

In 1982, both Japanese and European prices were below the United States level. In 1983, the export prices to the United States were for the first time above manufacturing cost. In view of the concentration of the VHS group on the elimination of the V2000 format and of Betamax in Europe, this trend was logical. In the following year, the price level of exports to the United States fell drastically. Betamax had to be eliminated and supplies to the United States geared up volume – Betamax still held about 20 %, in 1982. In 1983, the share declined to 10 %. Sony's share in the United States market dropped to 7 % in the following year.[41] As a complementary element, the quantitative aspect is revealing, as appears from Graph 2.2. The sales to the European Community dropped, but these were exports of ready-made VCRs in the high price range. The simple machines were assembled in the European Community. This story is told below.

The impression the data gives in Graph 2.1 is that low prices were reserved for the elimination of resistance by V2000 in Europe, and the European Community was given priority, both in terms of prices and, as Graph 2.2 shows, of quantity.

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[41] Television Digest, 18 March 1985.

Picture 2.1 The Sanyo Betamax VTC 5000 top loader in Sanyo's offer to Grundig

Elimination of the V2000 and Sony's Betamax by both price undercutting and quantitative strategies, or simply by dumping, was the path followed by Japan's heavyweights, headed by Matsushita, assisted by other majors.

In the year 1982 price decreases by 30 % and 60 % took place in the EEC VCR market. European producers thought that a lack of competitiveness caused this havoc. Sanyo, still uncertain as to which format would win, produced both Betamax and VHS format recorders. The company wanted Grundig to switch from Video 2000 format production to Betamax import and distribution. Whether Sony urged Sanyo is unclear, but Sanyo offered two Betamax VCR sets to Grundig at devastating prices. The up loader, the VTC 5000, shown in Picture 2.1, was offered at a price of 500 German marks (€255.65 or ¥50,000). Sanyo offered the front loader at DM 550 (€281.21 or ¥55,000).[42] Sanyo offered both types as Original Equipment Manufacturers' (OEM) equipment.[43] Grundig's sales to trade price of Video 2000 VCRs was 50 % higher than Sanyo's offer price. If the intention of the Japanese manufacturer was to convince European producers of the hopelessness of own production, it was based on a misapprehension of Max Grundig's personality and temper. The man became furious and wanted prompt action. Consequently, the telephone call from Philips to Grundig resulted in a shouted and angry reply that Grundig would participate in a hunt for the Japanese. Sanyo's tender also offered basic evidence for an anti-dumping complaint.[44] The presentation of dumping was not based on Sanyo's offer, which was considered too confidential, but on a comparison of Sanyo's popular model sold in the Japanese market and a similar model sold in retail trade in the European Community, VTC 5000. In both cases,

[42] This offer of the high specification machine was even less than 50 % of the average ex-factory price in Japan (in Graph 2.1).

[43] With the brand name of the European customer on it, in this case the producer involved, Grundig.

[44] The Association of Firms with a Common Interest in Video 2000: "Anti-Dumping Complaint Concerning Video Tape Recorders Originating in Japan" lodged the complaint on 5 December 1982 and the announcement of opening of an investigation was published before Christmas 1982, the quickest opening ever.

Table 2.3 Dumping calculation on a Sanyo Betamax VCR

Normal value (Japanese domestic price to trade)		
Sanyo VTC-G1 top loader (model sold in Japan)		Yen
Recommended, listed retail price		¥118,000
Usual rebate	6 %	6,679.25
Net price ex-retailer		111,320.75
Retailer's margin	20 %	18,553.46
Price to retailer		92,767.30
Wholesaler's margin	10 %	8,433.39
Price to trade		84,333.91
Commodity tax	10 %	7,666.72
Price to trade ex-manufacturer		¥76,667.19
At the exchange rate 100 Yen = DM 1		DM 766.67
Export price (Selling price in the EC)		
Sanyo VTC-5000 (model similar to VTC-G1)		
Average retail price		DM 1,198.00
Value Added Tax	13 %	199.67
Net retail price		998.33
Dealer's margin	20 %	166.39
Price to retail trade		831.94
Agent's fee	10 %	75.63
5 % GEMA (author's rights)	5 %	36.01
Landed price		720.30
Customs Duty	8 %	53.36
CIF Price		666.94
Insurance, Freight	2 %	13.08
FOB Price (offer price to Grundig was DM 500)		DM 653.87
Dumping		
Normal value		DM 766.67
Export price		653.87
Dumping margin		112.80
As % of CIF value		**16.9 %**

selling, general and accounting costs, and the margins to trade and taxes were taken into account.[45] The calculations are presented in Table 2.3.

The percentages of trade margins in Table 2.3 were common in European trade in 1982. The retailer's net margin in Japan is lower than presented in the calculation. In Japan, wholesalers and retailers are tied to the manufacturer, which means that a substantial part of the trade margins in Japan is ploughed back to the producer

[45] Non-confidential file of the Association of Firms with a Common Interest in Video 2000. The Association made some errors in its calculations, for which the author was responsible, which have been revised here. The Association found a dumping margin of 27 % of the CIF value. Recalculation by the author results in a lower dumping margin. It should also be noted that the retail margins in VCR trade were at that time considerably higher than today. Nevertheless, a trade margin of 30 % has been calculated. The confidential offer of the Japanese producer would show a dumping margin of more than 40 %.

as profit.[46] The Sanyo price in Japan is derived from the recommended retail price with deductions of all taxes and margins as usual in the Japanese market, while the European price is the actual retail price of retailer TeVi-Markt in Nuremberg on 12 December 1982. A page with this calculation instead of the Sanyo offer was added to the file after submission of the draft. Because of the tremendous uncertainty in European retail and wholesale trade about the winning format, the margins were substantially higher than the 20 % and 10 % allocated as respective retail and wholesale margins in Table 2.3. In addition, the margin must have been higher than 20 % because of the remarkable price decreases, which made the retailer very susceptible to stock depreciation. The retail price of a comparable successor Sanyo set of the VTC 5000, the VTC 5300, decreased by 50.1 % in 8 months. All brand prices, except V2000 models, decreased by more than 40 % in the same period. At that time, therefore, a dealer margin of about 40 % was a better approximation of reality.[47]

The average ex-factory production price of VCRs in Japan, as given in Graph 2.1, was DM 955, a comfortable price for V2000 producers. This level does not include general, selling and administrative costs and profits. The average production, ex-factory, value was 3 % higher than the average price to the European Community including selling costs and profit, i.e. manufacturing value plus domestic transport cost in Japan, plus selling, administrative and general (SG&A) expenditures for export to the export destination plus profit, if any.[48] The ex-factory value as apparent from the calculation in Table 2.3 was DM 653. Compared with the average cost the dumping was 45 %. The offer price of Sanyo's VTC 5000 top loader to Grundig was DM 500. Compared with the Japanese ex-works domestic selling value derived from the Japanese retail price compared with this price to Grundig represented a dumping of 52 %. Consequently, it was clear from all sides that substantial dumping had taken place.

The complaint by the Association with a Common Interest in Video 2000 was made in an extremely short period – a few days only – and in due time. The complaint was the material that Vice President of the Commission and Commissioner for Industry and Internal Market Étienne Davignon needed as basis for action. As indicated, on behalf of the European Community, the European Commission had to deal with Japan's complaint with GATT in the framework of Article

[46] See Chap. 7 on forward integrated or captive trade in Japan.

[47] Source: retail prices GfK. Margin of retail trade: non-confidential file "Anti-Dumping Complaint Concerning Video Tape Recorders Originating in Japan", Brussels: Irelco, December 1982.

[48] The sources of Graph 2.1 are from EIAJ statistics and the Japanese Tariff Committee.

XXIII[49] – Nullification or Impairment of Concessions by the EEC.[50] Because it presented an internal EEC trade barrier,[51] which was probably difficult to reconcile with Article VIII of GATT regarding customs formalities,[52] the European Commission had to deal with issue of point of levy of the French luxury tax on VCRs in Poitiers.

In addition to the restoration of its position regarding the internal market of the European Community, firm establishment of competence in trade policy matters, underlying the Poitiers measures, was also a vital issue. The objective of Commission vice-president Davignon was to settle both problems in one strike and, as a consequence, to establish his supremacy in the European Commission. In some respects he succeeded. The anti-dumping complaint lodged by the Association of Firms with a Common Interest in the Video 2000 System resulted in a notice of investigation in December 1982, published in the Official Journal of the Community, a phenomenal achievement by the European Community services. In February 1983, Commissioners Davignon (Internal Market and Industry) and Haferkamp (External Relations) came to an agreement with MITI. The Agreement was not a "tacit gentlemen's agreement" but a "Weather Forecast", and it seems absurd that this non-agreement was written on a non-paper, the content of which is reproduced in this Chapter (Picture 2.2). The Association of Firms with a Common Interest in the Video 2000 System was essentially compelled to withdraw its complaint and the French Government found another method of collecting its luxury tax other than solely in Poitiers or in factories. The French government sensibly seemed to dislike the outcome.

Viscount Davignon staged his discussions with the Japanese with backing from a very few, cleverly selected contacts in European Community industry, who were unaware of trade policy practices and effects of certain agreements. The directly commercially responsible in the companies concerned did not have the slightest idea of the consequences of their approval of certain details. Davignon phoned from Japan in the European night, which made consultations in Europe about his discussions with the Japanese impossible. The Weather Forecast, backed by only a few persons in European industry during nightly consultations and agreed to the Japanese, would spell doom to Video 2000 and Betamax.

[49] Recourse to Article XXIII:1 by Japan, document L/5472, 21 December 1982, see footnote 39. The retaliation of the Community was a complaint concerning the general barriers to imports caused by the distribution system (see Chap. 7), in the document: "Nullification of benefits and impediment to the attainment of GATT objectives", L/5479. Neither matter was pursued.

[50] According to Article 113, the European Commission will submit proposals to the Council and conduct negotiations (at present Article 133 of Consolidated Text of the Treaty and Article 207 of Treaty on the Functioning of the European Union, OJ C 83/47 of 30.3.2010).

[51] The point of entry prescription has the equivalent effect to a quantitative restriction and is not permitted by Article 31 of the Rome Treaty, which was Article 28 in the Consolidated Text of the Treaty establishing the European Community and Article 34 of the Treaty on the Functioning of the European Union, OJ C 83/47 of 30.3.2010.

[52] "Concerning Fees and Formalities connected with Importation and Exportation".

SUBJECT: Undertaking on VTRs

1. The Japanese side will exercise export moderation for VTRs towards the Community for two years. Export moderation will be implemented by a weather forecast. This weather forecast takes into account the following four elements:

(1) The export floor price system established by the Japanese authorities

(2) The European industry (see footnote) will be in a position to produce and sell at least 1.3 million VTRs within the Community in 1984.

(3) Chassis kits will be supplied to companies which contribute substantially to EC-Japan industrial cooperation by satisfying the following criteria, without being subject to the weather forecast in 1984.

(A) A considerable level of European value in the first half of 1984;

(B) The target of increasing substantially the European value of this production in the course of 1984 and 1985;

(C) Location in Europe of major tools;

(D) Total level of investments in manufacturing company should not be less than three million US dollars.

(4) Total Japanese export of VTRs, including chassis kits, but excluding those defined above, will not exceed 3.95 million units in 1984.

footnote: Including production by Community companies in Austria

2. The content of the weather forecast for 1985 will be the subject of consultation at the end of 1984.

It is understood that one-quarter-inch VTRs, professional VTR installations and VTRs for re-export outside the Community are not covered by the weather forecast. The Japanese side will implement a control system which will ensure that only clearly identified re-exports are credited against the forecast. Administrative guidance will be given to the effect that no re-routing into the Community market takes place.

Picture 2.2 Copy of the "Weather Forecast" (part of it)

One of the decisive factors was the market situation in the United Kingdom. The strategy of the United Kingdom and industry did not prevent, but rather accelerated destruction of the United Kingdom television industry, and certainly contributed to the precipitant decline of the European V2000 and the Betamax VCR format. In this destruction, Thorn EMI was principal party. Thorn EMI believed so strongly in the superiority of Matsushita that it introduced VHS recorders into its rental system with the companies DER, Radio Rentals and Rumbelows. This rental support was crucial. As shown above in this Chapter, the United Kingdom industry planned to offer these rentals as an asset in the acquisition, for survival, of television technology. They neither obtained the technology nor the survival, but the Japanese got access to United Kingdom distribution. The control of United Kingdom distribution channels, after the take-overs by Japanese producers as sketched above, substantially helped the Japanese firms Hitachi, Toshiba and Mitsubishi. Due to this particular property of the United Kingdom market, consumers avoided risks and were susceptible to new products. In the case of VCRs, they avoided the risk of choosing equipment of the wrong format. Fortunately for VHS producers, major

Japanese producers with access to distribution opted for VHS production. This is one of the explanations for why the United Kingdom market was ahead of the continent and even of the United States in videocassette recorder consumption. In 1982 the United Kingdom VCR market consisted of more than 2.8 million sets, compared with three million in continental EEC and 2.5 million in the United States.[53]

The lack of technological capability and urge for technology for survival tempted Thorn EMI – one of the last independent United Kingdom manufacturers and the greatest in the rental market – to market VHS and VHS film software on cassettes in return for VHS technology. EMI was an important producer and distributor both of music and films. Thorn EMI became very important as video software supplier. With support from Thorn EMI, the VHS format group was able to supply pre-taped software as a support to its sales of VHS machines via the same rentals, which had considerable impact on the position of VHS in the United Kingdom and later, in the rest of Europe. Through this, the VCR was promoted from a time shifter – recording of television programmes that could be viewed later –[54] to a Video Home System (VHS) that was supported by software supply, so that the VCR was both a time shifter and a home cinema. This was the marketing concept that particularly helped this system in Europe.[55] But the Weather Forecast would entail the decisive blow.

In return for this material software advantage, Thorn was able to start a joint VCR production facility in New Haven with JVC. Just as the television sector working party of the NEDC hoped to acquire television technology from Japan by means of stimulation of inward investments and by offering distribution channels to the Japanese – just what the Japanese needed – Thorn got its joint venture for VCR production. As shown, this policy did not help very much in colour television. VHS conquered with one blow, through Thorn's and other rentals, a huge share of the United Kingdom market – about 90 % –, which was of decisive importance for the European Community at large. Thorn also opted for JVC's capacitative disc system, Very High Density (VHD) rather than the laser optical disc systems, i.e. LaserVision, and for Audio High Density (AHD) instead of laser Compact Disc. By this latter move it came late with software on the CD market and missed

[53] Sources: "Television Digest", Vol 30, No. 34, 20 August 1990, p. 12, Simavelec and Euromonitor Market Research.

[54] Morita (1986, p. 208) considered it a time shifter.

[55] The market situation in the United States differed substantially. Its development was delayed because it hardly offered anything in addition to the huge number of television channels and pay television. The attractiveness of the machine came with availability of software.

Table 2.4 Brand policies and the VHS group

OEM supplies in Europe by the VHS group			
Customer	Brand	Country	Japanese supplier
Thorn EMI (later Thomson)	Ferguson	UK	JVC
Telefunken (later Thomson)	Telefunken	Germany	JVC
Bosch	Blaupunkt	Germany	Matsushita
Granada TV rental	Granada/Bush/Murphy	UK	Matsushita
Rank	Rank	UK	Toshiba
Thomson	Brandt, Continental Edison, Pathé Marconi, Teleavia, Saba, Nordmende	France	JVC
Thomson	Nordmende, Saba	Germany	JVC
Schneider	Schneider (Germany)	Schneider	Matsushita
ITT	Graetz, Standard Elektrik, ITT	Germany	Matsushita

substantial profits. Due to its acceptance of and preparation for AHD it was unable to start CD audio equipment production in due time.[56]

In addition to Thorn were Telefunken's strong television brand and distribution position in the German (second to Grundig), Italian and Spanish markets and its technologically frail position, which was attractive to JVC. Telefunken joined the club: J2T. Although production intentions are not always representative of effective output, total production announced by JVC and its allies in Europe, Thorn and Telefunken, was assembly of about 480,000 units in 1983, a substantial amount.[57] The consequence of these relations was that VHS built a strong production basis in the European Community in terms of assembly of VCR in the European Community. The survey of the brand relations is given in Table 2.4.

The volume policy of both Japanese VHS and Betamax (Sony less, Sanyo more) manufacturers on export markets can be deduced from their OEM deliveries. The great bulk of sales took place via United States and European manufacturers under their brand names at prices that discouraged even an intention of production by Sony and Sanyo. The following customers of VHS producers, mainly Matsushita

[56] The source is the memory of the author about a conversation with the managing director of Ferguson. The importance of both Thorn and Telefunken to JVC as a partner was also in the audio sphere. JVC had developed a digital audio system, Audio High Density, derived from Video High Density (VHD). It needed software support from Thorn EMI and Telefunken, which had a soft software pillar.

[57] Commission of the European Communities: "The European Consumer Electronics Industry"; TF-2, April 1985, p. 21.

and its daughter company JVC, were well-known brand names of television set manufacturers with developed distribution networks.[58]

Some European (and United States) traders and OEM customers later changed their sourcing to other manufacturers, some of which were Koreans.

2.5 European Trade Policy of Foreign Make: Japanese Self-Restraint

Picture 2.2 is a copy of part of the Weather Forecast. An agreement written on "non-paper" that contained a quantitative Weather Forecast: undertakings by MITI as to the value added of production by Japanese VCR assembly factories in the European Community and a commitment to set of floor prices.

> "*Export floor prices will be established by the Japanese authorities. The European industry (footnote: including production by Community companies in Austria) will be in a position to produce and sell at least 1.2 million VCRs within the Community in 1983*" and "*total Japanese exports of VCRs including chassis kits will not exceed 4.55 million units in 1983*",

according to the non-paper, which also included Weather Forecasts for colour receiver picture tubes, colour television sets and some other items. In one stroke, all issues were at first glance settled.

A colour receiver picture tube part –in the forecast – enabled the EECA to have consultations resulting in understandings about Japanese export quantities between the European Commission and MITI.[59]

> *It was understood that France's customs clearance procedures would be normalised as soon as possible, and that the anti-dumping procedure initiated by European VCR manufacturers would be dropped.*[60]

The Weather Forecast on VCRs was a one-page "non-paper", which is produced in Table 2.5. It spelled out some details agreed upon. Some parts had to be specified in a later stage. This implied that all sorts of meetings would be arranged: between MITI and the European Commission, between the European Commission and European industry, which required internal meetings between various departments of the European Commission and also between industry leaders. Thomson started the arrangement of regular meetings between European industrialists and MITI

[58] Kenichi Ohmae (1985, pp. 35–37); Metze (1991, pp. 45–46); Nayak and Ketteringham (1986, pp. 24–49); Kostecki (1991, p. 92).

[59] Colour television and tubes were part of the Weather Forecast. As the number of tube users was rather small, the negotiations were not very complicated. The demand for "free", i.e. non-captive, tubes was highly predictable. For the delegations these discussions were attractive, for they offered the possibility of trips to picturesque sites.

[60] "News and Views from Japan", Japanese Mission to the European Communities, 24 February 1983.

Table 2.5 The VCR "Weather Forecast"

Video Tape Recorder Quota Arrangement between EC and Japan		(thousand sets)
	1983	1984
Finished Products	3,950	3,950
Kits (SKD)	600	Est. 1,100 Free, If European Value 25% or above
European	1,200	1,300 Assured Free, If European 55% or above
Total	5,750	6,350

officials, some of whom in the JMEA, the Club de Cagnard, named after the splendid hotel where the first meeting took place. Thomson hoped to influence the negotiations in two ways: one via the governmental tables and one directly with MITI. During such lobby activities, and also directly, hard and bitter negotiations took place between Thomson and Philips about ceilings of Japanese exports of completely assembled VCRs and of chassis kits. Thomson wanted as many kits as possible, whereas Philips tried to reduce it because these kits were all VHS format machines. All negotiations took place with the objective to influence the content of the VCR Weather Forecast, as given in Table 2.5.

The non-written quantitative agreement, of Table 2.5, resulted in the detailed Table 2.6.

A second element in the agreement was the undertaking by MITI that Japanese firms would increase the local value of their production in the European Community. Since this was practically unfeasible, it was never properly checked. Initially, assembly remained restricted to the unpacking of mechanical decks and printed circuit boards stuffed with components, soldering them, putting them on the frame and packing them in the housing or cabinet purchased in Europe. Some Japanese manufacturers since added the assembly of mechanical decks, due to some

Table 2.6 Details of "Weather Forecast" consequences

	Agreement and reality	1983	1984
A	Finished products ex-Japan	3,950,000	3,950,000
B	Kits and subassemblies for Japanese assembly in EEC	600,000	1,100,000
C	European sales (including Austrian production)	1,200,000	1,300,000
D	Total sales forecast	5,750,000	6,350,000
E	VCR imports into the EEC (Eurostat)[a]	4,581,138	3,677,712

Sources: Nihon Keizai Shimbun, 20 August and 25 August 1983; Het Financieele Dagblad, 11 November 1983; Eurostat import statistics
[a]Excluding deflections of trade via Hong Kong, etc.

manoeuvres sketched in Sects. 5.4 and 6.2. The sets made in Europe were simple models. It is therefore not amazing that the average price of VCR shipments to Europe did not decrease as much as those to the United States. The share of complex, more up-market models in Japanese exports to the EEC increased.

The third element was a scheme of minimum prices based on a system of points, indicative of the value of certain features in the models.[61] Features specific to Video 2000, relating to length of playing time and noiseless still picture, were, of course, allotted the highest number of points. Minimum export prices of ¥70,000 for simple models, ¥85,000 for more sophisticated models and ¥100,000 for luxury models were proposed by MITI and accepted. Categories were defined in such a way that V2000 models were automatically in the highest range and Japanese prices could always undercut them. Or, if Europeans aligned their prices to Japanese levels, the Japanese could accuse Europeans of price disruption and excuse themselves. Although it was maintained that "price rises of up to 50 % characterised VER-restricted exports of Japanese video tape recorders to the EEC in the mid-80s. . ."[62] statements for which no tenable evidence was forwarded, the average Japanese export price to the EEC in 1983 was ¥80,610, which was not very different from the price of the products sent to the United States, ¥80,570. Consequently, the minimum price, which should have especially served the interests of Sony, because its products were generally higher priced, had hardly any effect. In subsequent years, the average export price of Japanese sets went up, but this did not imply a price rise in the European Community. In the first place, simple and cheap models were assembled in Europe. Second, prices in the statistics are partly inter-company prices. The export price may have been relatively high, but the resale price was be compensated by financial transactions with the European subsidiary.

Normally a VRA concerns quantities only. An additional price clause might raise questions concerning the need for such a part. However, the format struggle elicited quantitative competition for acceptance of one single standard. Volume competition is hardly possible without a price fight. Low prices would imply severe injury to at least one party, the adherents to Sony's Betamax format, which was the

[61] British Radio and Electronic Equipment Manufacturer's Association, March 1983.
[62] Kostecki (1991, pp. 87–99).

weakest inside Japan and, European V2000 interests aside, was harshly hurt by dumping outside Japan. Consequently, a price minimum was imperative in order to avoid decision on formats at the cost of losses. The price chapter in the Weather Forecast did not have the effect as often alleged. Products with the lowest ¥70,000 floor price were assembled in Europe and this price became irrelevant as export floor price – excluding the products exported to the European Community by means of deflection of trade via other countries. Prices of models assembled in Europe appeared much lower. More expensive models were produced in Japan. Compliance with the minimum price clause in the Weather Forecast was tested by a check of average prices rather than on the basis of a model-by-model inspection.[63]

Sony's interests were, apparently, not longer of primary importance to MITI. As sketched in the second paragraph about standardisation of Sect. 2.4, when Sony's system offered the best perspective, it was different. After the failed efforts in setting the VCR format in the 1970s, MITI had reluctantly given up its preponderant role in the VCR standard scene. It was clear that there was a victorious format. MITI was glad to take the lead again and to play a role in international trade, thereby strengthening its own authority.[64] The minimum price was in the interest of Sony, which had the smallest market share in Japan and could not benefit as much from the high domestic selling prices of video recorders as the VHS producers. Under the agreement on floor prices, Sony's sales in the European Community should have been more profitable. The minimum prices were, however, decreased a year later as proposed by MITI. Perhaps MITI had become aware that Sony could not be saved by the agreement. In view of the fear about protests from consumers, the European Commission could hardly refuse to agree. A differentiation was again made according to features. The minimum remained ¥70,000 for a "leader model". The other minima were ¥75,000 for a standard model, ¥80,000 for a top model and ¥87,000 for a stereo model. But the calculated FOB price derived from European shop prices and all costs incurred between shipment and sales in the shop was inferior to the agreed FOB minima, taking the currency movements between moment of shipping and sales taken into consideration.[65] The average price of a "leader" VHS model was DM 170 (€86.92) below the price actually expected in the retail shop, i.e. a lower price had been quoted than the one agreed. It may be

[63] Brian Hindley (1986) conceded the necessity of the check on the basis of model-by-model, but did not take the trouble or did not have or did not know sources for such inspection.

[64] It seems that measures were legally based on the same law as the Trade in Semiconductors Agreement in force since November 1986 – also a voluntary restraint agreement – with the United States, i.e. the Foreign Exchange and Foreign Trade Control Law, which was introduced for the purpose of COCOM enforcement, i.e. controls on strategic exports to Communist countries.

[65] It would take too much space to make the analysis here, but depending on the EEC country in which the distribution takes place and specific costs incurred, the calculation can be made from the shop backwards to FOB (with deduction of Value Added Tax, trade margins, selling expenses, costs of inland storage and freight, costs of importation, duty, insurance and freight costs) and those prices can be compared with the minima. The calculations had been made from data in Videomarkt in Germany and Institut Français de Recherche.

assumed that independent traders were not prepared to incur losses. Supply prices were considerably lower than could be expected on basis of agreed minima. A standard model cost DM 136 less than it should, and the top and stereo models DM 140 (€71.58) and DM 123 (€62.89) respectively. In France, the differences were more than Ff 85 (€12.96).[66] The European OEM customers, Thorn, Telefunken, Thomson of VHS imported either from JVC or assembled in the joint ventures (J2T). Bosch purchased from Matsushita or got sets from MB Video. Since the Japanese respected minimum prices in supplies to their European partners, but did themselves sell at lower prices under own brands, these Europeans loathed the minimum price system. This Japanese practice of dual pricing had its effect in on the future attitude towards arrangements proposed by the Japanese, discussed in Chap. 4.

The VCR arrangement was not only a compromise between the EEC and Japan. It was also a compromise among Japanese – Betamax and VHS – interests and among Europeans – producers of V2000 and assemblers in the joint ventures. Since limits on Japanese exports and hypothetical European sales clearly exceeded quantities of market demand, on which market European industry had presented pretty reliable forecasts to European Commission negotiators, disappointments were inevitable. The agreement did not improve the position of European producers at all. Since the German government demanded that sufficient kits for assembly by joint-ventures, of Telefunken with JVC and Bosch with Matsushita in MB Video (35 % owned by Bosch and 65 % by Matsushita) become available and the United Kingdom demanded sufficient kits for the joint-venture factory of Thorn and JVC in New Haven, the arrangement did not offer any certainty to those producers who needed relief from the injury by dumping.[67] As for the compromise in Japan, minimum prices served the Betamax format group (mainly Sony and Sanyo), needing profit on its sales abroad. The quantitative part was in the interest of VHS with its many production footholds in the European Community. It soon became clear that, while the price side of the agreement was ineffective, the quantitative element was decisive. The quantitative element of the agreement was the deathblow to European production, as Table 2.6 shows. Investments by

[66] Sources: Estimates circulated by the Commission of the European Communities; Nihon Keizai Shimbun, 11 July 1987; Dempa 27 January 1983; Simavelec (the French consumer electronics association). The retail prices come from GfK.

[67] Hindley (1986) alleged that Germany was silent about the self-restraint arrangement because Grundig and Philips produced in that country. It was the opposite. Frau Helga Steeg, Director General for Foreign Trade of the Federal Ministry of Economic Affairs, fervently opposed the agreement if it meant that Telefunken would not get its kits and components for production in Berlin. "You are killing our joint-ventures," she exclaimed to Vice-President of the Commission Davignon in a meeting of the trade policy advisory committee, Committee 113 (thereafter 133 and now Article 207 of the Treaty on the functioning of the European Union, OJ C83/47 of 30.3.2010), when the practical implementation of the Weather Forecast was discussed. The lobby of Telefunken's boss Josef Stoffels from Berlin and Blaupunks's chief Herbert Thum on behalf of a sufficiency of imported kits from Japan was stronger than the voice of Bavarian entrepreneur and Stoffels' former boss, Max Grundig.

Japanese VHS companies and co-operation between JVC and Thorn Ferguson, Telefunken and later with Thomson of France, which would take over Telefunken and Ferguson, and in a later stage between Matsushita and Bosch, gave a distinct advantage to the VHS system: export licenses of VCRs were allocated according to historical performance, the quota of kits according to requirements in Europe. The historical performance of VHS dramatically improved in 1982 and, consequently, the agreement by MITI and the managing of the export quota resulted in the victimizing of Sony and its Betamax format. Furthermore, the minimum prices for the leader models had no significance because the simple models were assembled in the European Community. Moreover, minimum prices for the medium class, above the simple models, decreased, which was to the disadvantage of more up-market Sony.

In one night, or 1 day in Japan, the results of Poitiers and the anti-dumping complaint had been thrown away, and Betamax and V2000 sentenced as Table 2.7 shows. The market was overstated and the sales of V2000 were accordingly assessed or guessed too high: a market share of 21 % in 1983 that would increase to 32 %, whereas the reality was a fall from 16 % to 12 %. Distribution by MITI of export licenses according to historical performance appeared lethal to Sony's Betamax and, as a corollary, to Video 2000. Estimates of Betamax and VHS market shares in Europe in 1982 were V2000 11 %, Betamax about 23 % and VHS 66 %.[68] The kits and sub-assemblies were practically only for VHS production in Europe. About 850,000 units were supposed to be assembled by VHS and only 80,000 by Sanyo and Sony.[69] The conclusion from the survey, which is presented in Table 2.7, that the MITI had opted for the powerful, Matsushita and its allies, seems self-evident. MITI checked the export quantities and, at a certain moment, acted as though it was able to check the destination of quantities. Massive transhipments, however, appeared to take place, which MITI must have noticed. After all, it appeared that the situation as consequence of these transhipment, was even better for VHS and worse for Betamax and V2000. Prices could not be checked; if they could, MITI would have found disrespect of the non-written agreement.

Immediately after the industry, Philips at the least, obtained information about details of the Weather Forecast a table was drawn presenting the figures and conclusions about the consequences of the arrangement, which were alarming. The interpretation of the data presented in the Weather Forecast, as spelled out in Table 2.7, was that a victory of and a switch to VHS were unavoidable. This outcome was predictable as early as March 1983. The overwhelming market share of 67 % held by VHS in 1983 and more in subsequent years as the consequence of the VRA meant that V2000 and Betamax would have insufficient market share and would not be capable of attracting sufficient software support. This rather poignant experience may have been – as already mentioned – the reason for the

[68] Commission of the European Communities: "The European Consumer Electronics Industry", 1985.

[69] Dempa, 1 January 1983.

Table 2.7 Alarming prediction: doom for Betamax and Video 2000 (units × 1,000)

					Share in actual market (% of D)		
		1983	1984	1985	1983	1984	1985
	VHS assembly in EEC[a]	695	909	1,400	12 %	16 %	23 %
	Weather Forecast: VHS imports[b]	3,061.25	3,061.25	3,061.25	55 %	53 %	49 %
A	**Total VHS**	3,756.25	3,970.25	4,461.25	67 %	68 %	72 %
	Betamax assembly in EEC[a]	60	60	120	1 %	1 %	2 %
	Weather Forecast: Betamax imports[b]	888.75	888.75	888.75	16 %	15 %	14 %
B	**Total Betamax**	948.75	948.75	1,008.75	17 %	16 %	16 %
C	**Weather Forecast: Video 2000 sales**	1,200	1,300	2,000	21 %	22 %	32 %
	Weather Forecast market	5,750	6,350	6,400			
D = A + B + C	**Weather Forecast and actual**	5,905	6,219	7,470	105 %	107 %	120 %
E	**Actual demand (market research)**	5,600	5,800	6,200	100 %	100 %	100 %
F = D − E	**Actually remaining for V2000**	895	881	730	16 %	15 %	12 %
	Percent V 2000 of Weather Forecast	75 %	68 %	37 %			

Source: paper circulated by the Commission of the European Communities; Nihon Keizai Shimbun, 11 July 1987; Dempa 27 January 1983; Simavelec; transhipments: Census & Statistics Department, Hong Kong: Hong Kong Trade Statistics

[a]Based on market research and information from sources below

[b]The Weather Forecast imports are the Weather Forecast exports divided over VHS and Betamax according to their exports in 1982

take-overs by Sony in a later stage of music and picture companies CBS and Columbia, a strategic move that might also have been prompted by the successful introduction of the Compact Disc standard with support of the software industry led by Philips' music division Polygram as well as the failure of introduction of a standard for the Rotary-Digital Audio Tape Recorder (R-DAT).[70] Because a removal of the export restraint might have resulted in legal steps against Japanese manufacturers on dumping, MITI announced, although nobody asked for it, that Japan maintain its voluntary restraints.[71] The real reason for this announcement was fear of anti-dumping actions against the leading Japanese producers. MITI hoped that it could protect the majors from dumping charges and to discipline certain

70 Financial Times, 16 December 1991.

71 Nikkan Kotyo, 20 November 1985.

newcomers in Japan that wanted to export VCRs at low prices, much to the dislike of the major Japanese. Sections 10.1, 10.2, 10.3, and 10.4 deal with this issue.

In March 1983 – a fortnight after the agreement – everyone within the company did not welcome the conclusion from Tables 2.6 and 2.7 that a switch by Philips from Video 2000 to VHS was inevitable. It was in the first place an indication of a mistaken judgment of the communication with Davignon during his negotiations, but also against declared internal policy. The grain of the message fell on rocky ground and resulted in animosity towards the messenger. Nevertheless, the switch actually took place in 1984. Sony formally abandoned its format in 1988 and started production and sales of VHS alongside Betamax. Philips increased its equity stake in Grundig, after Thomson tried in vain to acquire in 1984 – with French state funds – this German number one company. Thomson had already acquired too many German producers and Philips refused to sell its minority stake so that Thomson did not obtain competition authorities' approval for a take-over. Hermanus Koning from Philips became the first Chief Executive Officer of the new owned company. In the video sector, Grundig became a multi-system supplier, producing VHS systems alongside Video 2000 recorders. What Philips did not know, when it agreed on the acquisition price, was that it paid heavily for stocks of Video 2000 recorders at Grundig, valued at market price, but actually worthless. The stock clearance contributed to some revival of V2000 sales, but aggravated the price fall in the European Community VCR market in general.

Together with their joint ventures Japanese VHS producers obtained a majority of production in the European Community.[72] The Betamax group total sales worldwide declined from 28.3 % to 16.9 % in the second half of 1984. In 1985 the two VHS founders, JVC and mother Matsushita produced 13.4 million sets worldwide; Hitachi, Mitsubishi, Toshiba, NEC and Sharp together added another 14 million.[73] In 1987, the Betamax market share in Japan was reduced to only 5 %, which in view of its distribution position was Sony's normal market share in Japan.[74] Sony made another strategic mistake, discussed in Chap. 10. Instead of accepting VHS, not as a technically superior system, but as a political and commercial hegemony of the grouping supporting the standard, it tried to win the Koreans over to its system. That had destructive effects and created problems Europeans had to solve for the Japanese. Formally, Sony dropped its system a few years later. Formal abandonment by Sony in 1988 of its Betamax system,

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[72] Joint ventures are Thomson and JVC) with a mechanical deck production in Tonnerre (Burgundy, France) and VCR production in Berlin (Germany) and Matsushita-Bosch Video in Ostenrode (Germany). The production of J2T – at first a joint venture between JVC and Thorn and Telefunken, both latter acquired by the state-owned company Thomson – had a maximum level of about one million. After a few years, Thorn's factory in New Haven closed for VCR production. Later, Thomson created a joint venture with Toshiba in Singapore and an increasing part of its production was shifted to East Asia. The Berlin factory was abandoned in 1990 after the reunification of Germany and the discontinuation of the Berlinhilfe, aid for producers in Berlin.

[73] Dempa, 31 October 1985.

[74] Sony surrendered in 1988. The Japan Times, 6 August 1988.

technically the best Japanese system, came just a few years after surrender by V2000, which was considered technically the best system of all. Betamax flopped for the same reason as V2000. Often it has been alleged by Philips management that the availability of hard pornography software on cassettes was the main driver of VHS. That is only a part of the explanation. One of the major points was that Japanese VHS producers had a dominant share on the Japanese market and dumped their exports to Europe and also to the United States, reducing unit cost and improving profitability in the Japanese market and in the meantime predatorily establishing their video format. Chapter 7 shows the nature of Matsushita's position allowing high market share and domestic sales at high prices in the Japanese market. Chapter 8 explains the consequences of that market system.

Another serious consequence of the VCR case was that transition to the VHS absorbed investments and R&D intended for development of related products. Development of video camera recorder production had to be postponed. Dumping and turbulence in VCR market were not the only cause of a failure to produce camcorders. Destruction of the European photo camera and consumer film camera industry by Japanese imports caused a crippled European mass film lens and fine mechanical motors industry. The technological basis for a launch of video camera recorders was weak, but dumping and transition to VHS implied the end to the offspring of this new development, which was in progress. It would finally have its effect on the professional television camera industry. Thomson was not interested in consumer camera recorders; it would purchase them. It was only interested in – highly needed – profits on VCRs and, consequently, in VHS. It later even blocked an action in favour of domestic European video camera recorder production. It paid for this behaviour, discussed in Chap. 5.

2.6 Voluntary Restraints as Trade Policy Instrument: Preliminary Remarks

The lesson from the case of VCR is similar to those from other voluntary restraint agreements. These lessons are dealt with in the next chapter. It is clear from the examples that any arrangement not built on legal proceedings and measures without a legal basis are unsuitable as trade policy instruments. Because it makes their lives more interesting and their role more important, officials prefer "voluntary" arrangements. It gives them some discretionary power, and commercial parties become dependent and must show gratitude. The same applies to inter-industry arrangements, as displayed in the case of the RIC's arrangements. Delegations' members try to acquire good relations with the other party and gradually prefer to emphasise the benefit of such good relations. Finally, good relations acquired priority over firm arrangements and results for the industry generally came in at second place. The following quote about GEC's CEO Lord Arnold Weinstock opinion might serve as an example:

Talks were held several times a year and are widely regarded as having been remarkably successful, given the two industries' very real conflict of interests. Indeed, in about 1980 the Government advised the Machine Tool industry's trade association to visit BREMA in order to learn how to set up similar talks. Not everyone takes such a favourable view of the RIC/EIAJ talks, however; Lord Weinstock likens them to a deer talking to a tiger and considers the simile to have been borne out by events.[75]

Actually, self-restraint agreements have effects that border on corruption. A legally based measure closes the proceeding and parties can dedicate their time to activities they are normally supposed to perform. No repeated sign of gratitude or subservience toward a party at the negotiation table by another party is required. The next chapter deals with voluntary restraints in greater detail.

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[75] Lord Arnold Weinstock was the CEO of GEC, the company that had the joint venture with Hitachi, which collapsed; Geddes (1991), p. 386.

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