

Market Globalization and State Intervention: Regulatory Reform in the Japanese Petroleum and Telecommunications Industries¹

Hidetaka Yoshimatsu

Introduction

The world economy has been tightly integrated each other, and the capitalist system has spread all over the world. However, detailed form and characteristics of the capitalist system differ in the regions and countries. Particularly significant differences are seen between the East Asian and the Anglo-American system. While the former is characterised by active state intervention and close state-business relations, the latter is based on the neo-liberal paradigm with least state intervention and arm's-length state-business relations.

In recent years, much literature has focused on the influence of globalisation on domestic politics.² Globalisation has reduced implications of national borders, forcing states to make their rules and institutions compatible with international norms. This trend has special implications for East Asian countries whose capitalist systems are forced to transform as a result of globalisation. How has the trend of market

1. An earlier version of this paper was presented at the Conference on "Beyond Liberalisation. Making Economic Policy in Europe and the Asia Pacific: Comparisons, Regions, Linkages and Lessons" in Florence, October 15-16, 1998.

2. Jeffrey Frieden and Ronald Rogowski, "The Impact of the International Economy on National Policies: An Analytical Overview" in Robert O. Keohane and Helen V. Milner (eds.), *Internationalization and Domestic Politics* (Cambridge: Cambridge University Press, 1996); Kenichi Ohmae, *The End of the Nation State* (New York: Free Press, 1996); Geoffrey Garrett, "Global Markets and National Politics: Collision Course or Virtuous Circle?" *International Organization*, vol. 52, no. 4 (1998).

globalisation changed the capitalist system in general, and interventionist policies in particular, in East Asian countries? This study seeks to address this question in the Japanese context.

Several scholars have regarded Japan as a representative developmental state in East Asia whose distinctive nature is seen in state intervention in the economy and close state-business relations.³ In recent years, Japan has transformed its political, economic and industrial systems, as its economy has been increasingly integrated into the world economy. The government has implemented successive deregulation measures, and adopted policies to invite entry of foreign goods and firms. Japanese corporations have transformed the *keiretsu*-based inter-corporate systems. These trends seem to create a more liberalised economic and industrial system with less state intervention.

However, the assessment of substantial effects of these trends seems to need scrutiny. Bureaucrats and industries that have enjoyed the vested interest under the existing power structure are unwilling to accept changes in the entrenched practices, rules and institutions. There is also strong resistance in Japan to change the existing regulatory system that meets the social preferences and value of the Japanese.⁴ Even if globalisation is a major force to change the Japanese economic system into a market-based one, the process through which globalisation is embedded into policy outcomes would be accompanied by complicated political conflicts. Accordingly, we need to investigate this political process carefully in order to provide clearer insights into the relationship between globalisation and the transformation of the economic system in Japan.

In this article, I explore the causes and processes of regulatory reform with reference to international business operations. I assume that globalised business activities and international competition have motivated major domestic actors to promote the transformation of the regulatory system for creating better environments for international business, and that the reform process is still constrained by a traditional bureaucratic favour for maintaining market order. In order to test these assumptions, I

3. Chalmers Johnson, "Political Institutions and Economic Performance: The Government Business Relationship in Japan, South Korea, and Taiwan" in Frederic C. Deyo (ed.), *The Political Economy of the New Asian Industrialism* (Ithaca, N.Y.: Cornell University Press, 1987), James Fallows, *Looking at the Sun. The Rise of the New East Asian Economic and Political System* (New York: Vintage, 1994).

4. Katsuto Uchihashi, *Kisei kanwa to iu akumu* (A nightmare called deregulation) (Tokyo: Bungei shunjusha, 1995), Eisuke Sakakibara, *Shinpo syugi kara no ketubetu* (A departure from progressivism) (Tokyo: Yomiuri shinbunsha, 1996).

examine the policy development process of import liberalisation in the petroleum industry and deregulation in the telecommunications industry. Before examining the detailed cases, I sketch the recent trends of changes in Japan's interventionist regulatory system and the debate over the assessment of the trends.

Changes in Japan's Regulatory System in the 1990s

In the 1990s, various moves to transform the regulatory system have occurred in Japan. Government intervention often springs from its power to supervise the industries under the meshed regulations. The government has adopted successive package schemes for deregulation (*kisei kanwa*) especially after the reform-minded Hosokawa administration replaced the Liberal Democratic Party's (LDP) single-party government in August 1993. The Economic Reform Research Council (the so-called Hiraiwa group) issued an interim report in November 1993, raising the nearly 500 examples of regulation that could be eliminated or revised. Then, the government announced a five-year action program for deregulation in March 1995. The program was revised at the end of each fiscal year afterward, expanding the number of targeted items for deregulation from 1,091 in 1995 to 1,797 in 1996 and to 2,823 in 1997. More significantly, the government has deepened its commitment to deregulation from playing the 'numbers game' among ministries to revising the core of the regulatory system. The 1997 action program raised several basic principles for deregulation. One example is a shift from the preventive type to a post-factum type regulatory system. This shift aimed at abandoning discretionary intervention based on administrative guidance.⁵ Another example is the dismantling of the system restricting the entry into, and making capital investment in the markets from the viewpoint of adjusting supply and demand. This robbed the bureaucrats of the most often used prerequisite for intervening in economic activities.

One of the most problematic practices that allow market controls by industrial associations and differentiate the Japanese system from the liberal norm is the exemption system of cartel from the application of

5. Administrative guidance is defined as an administrative action that, without any coercive legal effect, 'encourages regulated parties to act in a specific way in order to realize some administrative aim' (Michael K. Young, "Judicial Review of Administrative Guidance: Governmentally Encouraged Consensual Dispute Resolution in Japan," *Columbia Law Review*, vol. 84, no. 4 (1984), p. 923).

the Antimonopoly Law. There were quite a few exemptions under the Antimonopoly Law itself, under the Exemption Law, and under various individual laws. In recent years, the exemption systems have been revised substantially. By March 1998, four out of seven exemption systems under the Antimonopoly Law including depression cartels and rationalisation cartels were abolished, and two systems were under consideration for the abolition. With respect to the exemption systems under the Exemption Law, the law itself was abolished, nine systems concerning cooperatives were transferred to the Antimonopoly Law, and other 24 systems were in principle abolished. As for the exemption systems under the individual laws, the omnibus package law was promulgated in June 1997 in order to change 35 exemption systems under 20 laws. Twenty-six systems were abolished or amended, and six systems were modified to clarify the scope of the exemption.

Interventionist policy and close business-government relations have much to do with the role of the Fair Trade Commission (FTC) that administers the Antimonopoly Law. A shift from the discretion-based to a rule-based system needs the FTC's active commitments. The FTC, a quasi-judicial body that is supposed to be independent of all ministries, held a weak power partly because it did not hold cabinet rank, being regarded as a non-biting watchdog. However, the FTC has gradually strengthened its organisational power. The number of staffs increased from 520 to 552 between 1995 and 1998, while that of investigators grew from 220 to 254 in the same period. The increase in investigators is expected to raise capability to gather evidence and step up the enforcement of the law. Moreover, the FTC strengthened its supervision on anti-competitive administrative guidance and non-governmental restrictions in the private sector. In June 1994, the FTC issued the 'Antimonopoly Act Guidelines Regarding Administrative Guidance,' which aimed at limiting bureaucrats' discretion by codifying regulations. Then, in October 1995, it released the 'Antimonopoly Act Guidelines Concerning the Activities of Trade Associations,' which clarified the interpretation of industrial associations' activities including restrictions on the members.

In spite of the above trends toward regulatory reform, the issue of the extent to which the Japanese regulatory system has changed has been the subject of controversy. The economists who put stress on the role of global market forces in changing the domestic system tend to support the view that Japan is moving toward the market-based systems and policies. By contrast, political scientists who pay respect to the role of institutions and societal values are disinclined to accept such a view.

Tilton argues that developmentalism is still the common sense that guides the economy in Japan and liberal ideology has not fundamentally transformed Japanese economic thinking.⁶ Vogel also holds that Japan's liberalisation process is powerfully conditioned by the developmental strategies that are institutionalised in economic, political and industrial systems.⁷ Yamamura and Anchordoguy acknowledge evidence that the Japanese regulatory system is converging to the Anglo-American model. Yamamura criticises both convergence and non-convergence views: while the former fails to give due consideration to differences in national preferences and institutional roles, the latter underestimates market forces and the demands of the people affected by them. However, his hybrid view has a lean to non-convergence.⁸ Anchordoguy acknowledges that Japan is converging to the west in the fields of state funds for science and technology and higher education, but argues that Japan's favour for market manipulation and producer-oriented insertions has not fundamentally changed.⁹

A critical fact about regulatory reform in Japan is that the government has implemented *kisei kanwa* (deregulation) not *kisei teppai* (abolition

Table 1. The Number of Licensing in 1985 and 1997

	December 1985		March 1997	
Strong regulations	4,092	40.7 %	4,333	39.3 %
Moderate regulations	1,043	10.4 %	1,404	12.7 %
Weak regulations	4,502	44.8 %	4,850	44.0 %
Others	417	4.1 %	445	4.0 %
Total	10,054	100.0 %	11,032	100.0 %

Source: Management and Coordination Agency, *Kisei kanwa hakusho* (White paper on deregulation) (Tokyo: Okurasho Insatsukyoku, 1998), p. 219.

6. Mark C. Tilton, "Regulatory Reform and Market Opening in Japan" in Lonny E. Carlile and Mark C. Tilton (eds.), *Is Japan Really Changing Its Ways?: Regulatory Reform and the Japanese Economy* (Washington D.C.: Brookings Institution, 1998), pp. 185-186.

7. Steven K Vogel, "Can Japan Disengage?. Winners and Losers in Japan's Political Economy, and the Ties that Bind Them." *BRIE Working Paper*, no. 111 (1997).

8. Kozo Yamamura, "The Japanese Political Economy after the "Bubble" Plus Ca Change?" *Journal of Japanese Studies*, vol. 23, no. 2 (1997).

9. Marie Anchordoguy, "Japan at a Technological Crossroads: Does Change Support Convergence Theory?" *Journal of Japanese Studies*, vol. 23, no. 2 (1997).

or repeal of regulations). The aggregate data on deregulation illustrates this fact. Table 1 exhibits changes in the number of 'licensing' (*kyonin-ka*) by classifying them into three categories: strong, moderate, and weak regulations. In spite of a successive implementation of deregulation programs, the actual number of licensing increased from 10,054 to 11,032 between 1985 and 1997. This stems from the fact that a deregulation measure has often invited several re-regulations, leaving the substance of regulation in another form of regulation.¹⁰

Why has the Japanese government adopted this peculiar style of regulatory reform? In addressing this question, we need to take into account the government's strong orientation to maintain market order. In the industrial development process, the government sought to avoid the emergence of 'losers' in the market by sometimes making strong actors in the market assume the responsibility for sound development of the market. As Murakami argues, the major objective of government intervention and industrial policy was to balance two requirements of minimising the costs of bankruptcy or unemployment during the competition process and maintaining incentives for competition among companies.¹¹ For this objective, various institutions including subcontracting relations between large and small enterprises and public corporations for small enterprises provided the bases for preventing bankruptcy and unemployment.

The government agencies and business sectors set up a wide range of formal and informal channels for continual consultation and information sharing.¹² They are linked through formal advisory councils (*shingikai*), the business federations and industrial associations, and various public enterprises including research associations and public finance institutions.¹³ They are also linked through informal study groups and

10. Vogel calls this pattern of regulatory reform "strategic reinforcement," in which the government implements regulatory reform selectively with an eye to ensuring that domestic firms survive and reinforcing critical mechanisms of control (Steven K. Vogel, *Freer Markets, More Rules: Regulatory Reform in Advanced Industrial Countries* (Ithaca, N.Y.: Cornell University Press, 1996), p. 207).

11. Yasusuke Murakami, *Han-koten no seiji keizai gaku* (An anticlassical political-economic analysis) (Tokyo: Chuo korensa, 1992), p. 90.

12. Daniel I. Okimoto, *Between MITI and the Market: Japanese Industrial Policy for High Technology* (Stanford: Stanford University Press, 1989).

13. The advisory councils are attached to and appointed by ministries, and staffed by representatives from peak business, relevant industrial sectors, journalism and academia. These councils function as intermediate vehicles reflecting the interests and opinions of various societal groups in the formulation of public policy.

amakudari.¹⁴ These dense channels have helped government agencies to implement measures and policies, especially administrative guidance. Of particular note in assessing the intermediary institutions including administrative guidance is that the government agencies have utilised them in order to maintain sound market order. The conventional example is that when the private sector faced a problem in forming a recession cartel, a majority of the industry asked the government to use administrative guidance encouraging the formation of the cartel, and thereby restrained the opposition.¹⁵ A critical question in analysing the relationship between globalisation and regulatory reform in Japan is whether and how globalisation has changed the government's orientation to maintain market order.

In addressing this question, we need to recognise that there are significant variations in transformation among different issue areas and industrial sectors, and that the process of transformation that affects the existing power structure is inevitably accompanied by complicated political conflict. Indeed, it is critical to overview the extent to which the Japanese regulatory system as a whole is converging to the liberal market model. But this approach fails to account for other critical issues including in what process a particular policy change occurs, who is involved in the process with what interests, and to what extent the efforts for reform are substantial and sincere. Accordingly, it is useful to take up particular cases in order to clarify the policy development process in which various actors' preferences and activities interact.

The Transformation of Regulatory System: The Case Studies

This section takes up two case studies for the purpose of exploring the development in regulatory reform policies in particular sectors. The first case is relevant to the petroleum industry. The petroleum industry was long under intensive protection in order to maintain stable and secure sources of energy for industrial growth. However, protective regulations were gradually removed after the 1980s. In this process, and the most critical policy change was the liberalisation of oil product imports in

14. *Amakudari* (literally 'descent from heaven') is a custom whereby bureaucrats descend into high positions in industrial associations or companies. Bureaucrats, through *amakudari*, exert influence on industries and companies as well as securing beneficial positions in retirement.

15. Kosuke Oyama, "Gendai nihon ni okeru gyosei shido no seiji kozo" (The political structure of administrative guidance in contemporary Japan), *Shakai kagaku kenkyu*, vol. 40, no. 6 (1989), p. 21.

March 1996. Various actors were involved in the policy development process over this issue. The second case highlights the telecommunications industry. The development of the industry was promoted under strong government control and telecommunications services were provided by public entities or highly regulated monopolies. However, the regulatory reform of the telecommunications industry has been promoted since the early 1980s in developed countries. In Japan, the telecommunications industry is emerging as one of the most critical sectors because of its potential to mitigate any unemployment produced by offshore shifts in the manufacturing sectors, and the deregulation of the industry has been a source of intensive debates. Thus, the two industries share similar characteristics as experiencing the reform process shifting away from heavy regulations.

At the same time, they have different industrial features. While the petroleum sector belongs to the manufacturing industry, telecommunications is a major service industry. The petroleum and telecommunications industries are also under the jurisdiction of different government agencies. While the former is under the Natural Resources and Energy Agency in MITI, the latter is under the Ministry of Posts and Telecommunications (MPT). The selection of the two industries with such differences broadens the range of observation and deepens the analysis.

Import Liberalisation in the Petroleum Industry

In June 1994, the Petroleum Council, an advisory body to the Minister of International Trade and Industry, issued an interim report on reforming the petroleum product supply system, including the handling of the Provisional Measures Law on the Importation of Specific Petroleum Refined Products. The law, came into force in January 1986, was designed to allow the partial importation of oil products in response to pressures from the United States and European countries. Article V of the law allowed the imports of gasoline, kerosene and light oil to companies with substitute production capability, stockpiling capability, and quality control capability. The requirement of the substitute production capability virtually confined the importers to the companies operating oil refineries. Consequently, the imported oil products accounted for only 1-3 percent of the domestic demand in the early 1990s. The Petroleum Council recommended that the law should be repealed in March 1996 when it comes up for renewal, not being extended.

MITI had long put stress on ensuring supply stability at the expense of efficiency, based on the principle of 'the domestic refining of all

domestically consumed oil products.’ However, it received pressure to reduce prices of oil products that were high compared with those in other countries. In February 1994, the four industrial associations comprising the user companies of high sulphur C heavy oil requested that import restrictive high tariffs of high sulphur C heavy oil should be removed and imports of heavy oil should be liberalised. The gap between domestic and overseas prices was also problematic in gasoline. According to a report issued in August 1993, the price of gasoline in Tokyo was 123.3 yen per liter, four times as high as 32.1 yen in New York.¹⁶ The abolition of the law was expected to rectify the high prices of gasoline by promoting new entry into the oil import business and stimulating price competition between Japanese and imported products. The abolition of the law also served to show MITI’s willingness to push for deregulation, the most critical policy agenda in the 1990s. MITI issues a report on ‘the major objectives of commercial and industrial policy’ every year. The leading item in the 1994 report was ‘the support for the structural adjustment toward creative innovation,’ and the promotion of deregulation and institutional reform was raised as the primary agenda for this objective (MITI, 1994: 4). MITI announced the abolition of the petroleum import law as an eye-catcher of its deregulation items, which was incorporated into the package scheme for deregulation announced in June 1994.

The majority of oil companies opposed the scrapping of the law. They formally held that the abolition would jeopardise the stable supply of oil products. For instance, Shujiro Osawa, President of Nippon Oil Co., argued that:

the petroleum import law does not aim to regulate but to stipulate qualifications for ensuring stable oil supply that is indispensable for the people’s living.... Since oil products will be in short supply in the world markets in the future, Japan should adhere to the principle of “the domestic refining of all domestically consumed oil products.”¹⁷

At the same time, the oil companies feared that the expansion of imported oil products, gasoline in particular, would reduce their market

16. *Sekiyu seisaku*, April 25, 1994, p. 8. The high price of gasoline stemmed partly from a distorted price system of major oil products adopted at the 1973 first oil shock. MITI encouraged oil companies to raise the price of gasoline - a kind of luxury product -, and to keep those of kerosene for home heating and light oil widely used for public transportation low. Although domestic refining costs of the three products were almost same, kerosene was marketed at half the price of gasoline and light oil at 40 percent less.

17. *Sekiyu seisaku*, February 15, 1994, p. 5.

share and curtail profits. The subsidiaries of U.S. oil companies adopted the same stance as the majority of the Japanese oil refining companies. For instance, W. R. K. Inness, President of Esso Oil Japan, argued that given the strategic importance of oil supply for the Japanese economy, the maintenance of the sound domestic refining capability is indispensable.¹⁸ The subsidiaries have gained profits under the existing regulatory system.

The Petroleum Council set up a subcommittee in February 1994 in order to search for an appropriate balance between stable and efficient supply of oil products. The committee comprised 29 members including eight representatives from oil refining companies. As explained later, some oil company members supported the liberalisation of oil product imports. However, the majority of the oil company members opposed the abolition of the petroleum import law. The subcommittee was expected to hold six meetings before issuing an interim report. However, an additional meeting was set up because the subcommittee could not find a compromise due to strong objection to the abolition from the oil company members. The oil company members failed to block the abolition of the law, but drew substantial concessions on details of remaining requirements for stockpiling and quality control.

The Petroleum Association of Japan, an industrial association of oil companies, implemented actions against the abolition. The association resisted Keidanren's (the Federation of Economic Organisations) positive attitude to abolish the law. When the scrapping of the law became a policy issue in 1994, Keidanren, the most influential business federation in Japan, supported it. Shoichiro Toyoda, who was elected as the eighth chairman in May 1994, raised deregulation as a key pillar of Keidanren's activities. The abolition of the petroleum import law was regarded as a major item for deregulation. When Toyoda expressed his support for the abolition, Yasuoki Takeuchi, President of the petroleum association, a Keidanren member, expressed his opposition explaining the historical background of the law.¹⁹ In addition, when Keidanren drew up a position paper *A Proposal for a Deregulation Promotion Plan for Japan* in November 1994, it sought to put the abolition of the law on the deregulation list. Although Kozo Uchida, a managing director of Keidanren, met with Takeuchi many times in order to discuss this issue, Uchida could not persuade Takeuchi to put the regulations regarding the petroleum sector on the list. Eventually, proposals on the petroleum

18. *Sekiyu setsaku*, April 15, 1994, p. 27.

19. *Nihon Keizai Shimbun*, June 15, 1994.

sector were omitted from the text.²⁰ Although Keidanren's initiative was undermined by the opposition from the petroleum association — its major member —, Keidanren's persistent support for deregulation encouraged the government to push for the liberalisation of oil product imports.

Of particular note is that all oil companies did not adopt the same stance on the scrapping of the law. Idemitsu Kosan Co., Japan's second largest oil refiner, and Mitsubishi Oil Co. supported the abolition. A Mitsubishi Oil spokesman said that:

the law, which presupposes the emergency situation, has extremely high barriers. It will be difficult to get the people's consensus for the automatic extension of the law that was enacted ten years ago.²¹

Yuji Idemitsu, President of Idemitsu, stated that:

the abolition of the law that restricts imports of oil products will lead to the liberalisation of oil product exports. This will provide new business chances for the Japanese petroleum industry.²²

The support of these companies for the abolition had much to do with their interests in international business. Mitsubishi Oil had engaged in the development of crude oil in Papua New Guinea, Canada, Vietnam and North Sea in England, aiming to establish the integrated system from the upstream operations involving exploration and pumping of crude oil to downstream ones including refining and distribution. The company hoped to get a freer hand for businesses by promoting the liberalisation of the petroleum industry. Idemitsu Kosan had an interest in exports of oil products. In 1994, the company substantially implemented the ex-ports of oil products from a subsidiary in the Okinawa prefecture, and exported light oil to an electric corporation in Guam in November 1996. The abolition of the law was expected to accelerate the deregulation of exports of refined oil products, and thereby would provide oil refiners with more freedom to manage the stocks of oil products more efficiently by exporting the surplus.

The opposition of Mitsubishi and Idemitsu had an influence on the policy debate on the abolition of the law. Their opposition prevented the petroleum industry from undertaking collective actions of the whole

20. *Nihon Keizai Shimbun*, November 18, 1994.

21. *Zaikai*, April 12, 1994, p. 29.

22. *Nikkei Sangyo Shimbun*, June 16, 1994.

industry. A major reason why Takeuchi decided to stay at the head of the petroleum association in spite of criticism of the 10-year tenure was that he feared that his resignation would lead to a rise in support for the abolition of the law that Idemitsu and Mitsubishi advocated.²³ Kikuo Yamada, President of Mitsubishi, and Yuji Idemitsu joined the subcommittee of the Petroleum Council as members and expressed their support for the liberalisation of the petroleum industry, although other six members from oil companies strongly asserted the extension of the petroleum import law.²⁴

The stance of Idemitsu and Mitsubishi on international business was consonant with the recommendations of the interim report. A particular feature of the report was that it advocated the advancement of Japanese oil companies into Asia, adopting a shift from the 'domestic refining of oil products' to the 'regional refining of oil products.' The report also encouraged the government to develop environments for exports of oil products.²⁵ Mitsubishi and Idemitsu shared the essence of these recommendations. For instance, Mitsubishi had formulated internal guidelines that had similar content of the panel report about the internationalisation of the Japanese petroleum industry.²⁶

The law was abolished in March 1996, but this liberalisation measure had moderate effects on the market. The share of imported oil products rose quite slightly after the scrapping of the law. The share of imported products in the domestic demand increased from 7.8 percent to 11.6 percent in light oil and from 2.7 percent to 3.6 percent in kerosene between 1994 and 1996. However, the share in gasoline declined from 2.9 percent to 2.7 percent in the same period, only 0.2 percent of which was brought about by new entry.²⁷ This result stemmed partly from economic factors including a rise in prices of oil products in overseas markets and a depreciation of the yen. A decline in price of domestic gasoline was particularly crucial. The average pump price of regular gasoline declined by 14 yen (13 percent) between January 1994 and March 1996 amid speculation that deregulation would heat up competition.²⁸ Accordingly, import business was expected to yield moderate profits.

Equally important was that the liberalisation was incomplete and the

23. *Zaikai*, April 12, 1994, p. 30.

24. *Nenryo Yushu Shimbun*, March 19, 1994.

25. The restrictions on exports of oil products were substantially relaxed in 1997 by amending the Export Trade Control Ordinance.

26. *Sentaku*, August 1994, p. 97.

27. Sekiyu Renmei, *Kisei kanwa, kawaru sekiryu Q & A*, p. 8.

28. *Nihon Keizai Shimbun*, September 9, 1996.

remaining regulations impeded new entry. Although the substitute production requirement was removed, the requirements of stockpiling and quality control remained. While the stockpiling requirement was incorporated into the amended Oil Stockpile Law, the quality control requirement was put into the Quality Assurance Law that was renamed for the Gasoline Sales Law. In the new legal systems, problematic aspects of the regulations remained unchanged and some conditions were strengthened. As far as the quality control requirement was concerned, the Japan Industrial Standards (JIS), ambiguous standards authorised by a MITI-affiliated organisation, were replaced by compulsory legal standards. The new system included additional standards concerning sulphur and benzene in gasoline. Through the regulatory changes, MITI augmented its authority to administer regulatory standards including the application of penal regulations. With respect to the stockpiling requirement, the storage period for the importers was expected to be 50 days. However, accepting the demand from oil companies, the importers were required to stockpile a 70-day supply calculated every month based on the company's previous 12 months of business. In addition, the stockpiling requirement was previously imposed on the importers with more than 10,000 kiloliters annually, but all importers were required in the new system. Thus, the liberalisation of oil product imports has a character that MITI persuaded oil companies to accept the abolition of the petroleum import law in exchange for the re-regulation of the remaining two requirements.

Because of the stockpiling requirement, only large companies such as the general trading houses and the National Federation of Agricultural Cooperative Associations (*Zenno*), which retained stockpiling facilities, could enter the import business immediately. In April 1996, Itochu Corp., which retained the largest number of *keiretsu* petroleum stations among the trading houses, became a harbinger, importing 6,400-kiloliter gasoline from Yulong Ltd., a major South Korean petroleum company. Itochu was followed by *Zenno*, which imported 70,000-kiloliter gasoline in 1996. The trading houses and *Zenno*, which retain their own *keiretsu* petroleum stations, are so-to-speak insiders of the petroleum industry. Even these companies could import extremely small volume. According to an estimate by the Long-Term Credit Bank Research Institute, the trading houses and *Zenno* could import 1.7 percent and 6.7 percent of their gasoline sales in 1993 respectively by using the existing storage tanks.²⁹ The new entrants other than the trading houses and *Zenno*,

29. *Soken chosa*, no. 37 (1995), p. 40.

which had to make huge investment in stockpiling facilities or lent them from oil companies, had great difficulty in entering the import business. Eventually, only three companies entered the gasoline import business in 1996. The abolition of the law contributed to a decline in price of gasoline but had meagre effects on new entry into the oil import business.

To summarise, the liberalisation of oil product imports was implemented with an eye to rectifying the gap between domestic and overseas prices and promoting the overall deregulation. At the same time, the internationalised business environments surrounding the Japanese petroleum industry had much to do with the liberalisation measure. MITI hoped that Japanese oil companies actively expanded their operations in Asia, and some companies undertook such operations. This formed the backbone of the measure. In spite of the liberalisation, new entry was limited. Among various factors, the remaining entry barriers, which MITI left in order to mitigate the radical changes in the market, played a critical role in producing this result.

Deregulation in the Telecommunications Industry

The Japanese telecommunications industry, like that in other countries, was developed under intensive government regulations, prohibiting any kinds of competition. In April 1985, the government abolished all legally approved monopolies, inviting the entry of new common carriers (NCCs) into the telecommunications business in which only Nippon Telegraph and Telephone Corp. (NTT) and Kokusai Denshin Denwa Co. (KDD) provided domestic and international services, respectively.³⁰ At the same time, MPT obtained greater authority to control investments and service conditions including charges by facilities-based carriers, entry for all types of services, and all telecommunications sector standards.

One of the most distinctive characteristics in regulation on the telecommunications industry in Japan was the segmentation of local, long-distance, and international services. The Telecommunications Business Law, which came into effect in April 1985, establishes three types of business activities that require a license.³¹ The law does not

30. DDI Corp., Japan Telecom Co., and Teleway Japan Corp. entered the long-distance telecommunications business, while International Digital Communications Inc. (IDC) and International Telecom Japan Inc. (ITJ) began to provide international services. Local call services were provided by subsidiaries of regional electricity companies, and cable television operator Titus Communications and Jupiter.

31. Type I businesses are provided by carriers with their own networks and facilities; Special

stipulate limitations to the areas of business operations for NCCs, although those for NTT and KDD were included in the NTT Law and KDD Law.³² However, MPT segmented the business areas for NCCs by discretionary administrative guidance from a standpoint of adjusting supply and demand in the market. For instance, Tokyo Telecommunications Network Co. (TTNet), a local carrier affiliated to Tokyo Electric Power, hoped to enter the long-distance telecommunications business by linking nine local carriers of regional electricity companies. But this proposal was turned down by MPT's administrative guidance.³³ The peculiarity of the segmentation becomes more conspicuous given that Japan was the only major industrialised country that prevented the leading domestic carrier, NTT — the only carrier with the size and strength to compete with other global carriers — from entering the global telecommunications market.

The separation between domestic and international service areas was introduced originally as a matter of administrative convenience. The network with international gateway switches making the connections abroad facilitated the distinction, and the different set of international institutions was convenient for negotiations on international tariffs.³⁴ Furthermore, the segmentation of international, domestic long-distance and domestic local markets contributed to the augmentation of MPT's authority. Because of the segmentation, MPT could provide permission to more companies and regulate conditions of each market. The segmentation also enabled MPT to retain more posts for *amakudari*. The greater the number of companies to emerge as a result of the segmentation, the more jobs there would be reserved for retired MPT bureaucrats.

MPT's policy for segmentation continued until the mid 1990s. In November 1995, Koji Hamada, Director-General of Telecommunications Business Department, manifested at a public hearing of the deregulation subcommittee under the Administrative Reform Committee that no

Type II consists of domestic information services that are offered to many and unspecified persons and all foreign value-added services; and General Type II refers to other value-added services.

32. Article I of the NTT Law defines NTT as a corporation that performs a domestic telecommunications business, while Article I of the KDD Law stipulates that KDD's purpose is to operate an international telecommunications business.

33. Hajime Fujii, *Bunkatsu NTT vs yuseisho: Taiginaki tatakat* (Division, NTT vs MPT: Struggle without justice) (Tokyo: Daiyamondosha, 1996), p. 116

34. Martin Fransman, "NTT and Japan's Telecommunications Industry at the Crossroads: The Way Forward," paper presented at Japan Information Access Project, CyberJapan: Technology, Policy & Society Symposium (May 31, 1996), p. 11.

segmentation existed between local and long-distance telecommunications services. The following month, the Minister of Posts and Telecommunications formally announced that the government would remove administrative guidance segmenting local, long-distance and international services. This deregulation measure, coupled with other measures including the revision from approval to notification for charges of mobile phones, was announced as a means to lead the NTT reform issue in MPT's favour.³⁵ MPT accepted the deregulation measures on the conditions that the Administrative Reform Committee would include the necessity of the NTT breakup in its report announced in December 1995.³⁶

The deregulation of NTT's and KDD's business areas, which needed the amendments of the laws, became a vital political policy issue because it was also linked to the NTT reform issue. MPT asserted that the approval of NTT's international business and the solution of the reform issue should be linked, and that NTT's international business would be approved after a level playing field between NTT and NCCs would be created by NTT's breakup.³⁷ MPT also feared that NTT's embarking on international business would jeopardise the status of KDD as the leading international telecommunications carrier. Although KDD was the only corporation that was allowed to provide international services until 1985, its corporate size was about one-twentieth of NTT in terms of corporate revenue.³⁸ Moreover, MPT has cultivated close relations with KDD. KDD's leading stockholder has been MPT's Mutual Aid Association, which as of September 1995 possessed 11 percent of KDD's total stocks. The chairman and director of the association are the Minister and Vice-minister of Posts and Telecommunications.³⁹ Furthermore, KDD has accepted quite a few *amakudari* from MPT.

35. The NTT reform issue was first taken up by the Second Provisional Council on Administrative Reform (*Rincho*) in 1982. The *Rincho* report recommended the privatisation and breakup of NTT but only privatisation was implemented in 1985. In March 1990, The Telecommunications Council issued a report which recommend the breakup of NTT. But the settlement of the issue had been postponed largely due to political considerations. In April 1995, MPT requested the Telecommunications Council to study the NTT reform issue and produce a report again.

36. Fujii, *op.cit.*, pp. 119-121.

37. MPT's stance was incorporated into the report of the Telecommunications Council issued in February 1996. The report recommended that NTT be split into one long-distance carrier and two regional carriers by the end of March 1999. It also suggested making the long-distance company compete in the international telecommunications market.

38. In 1996, NTT's revenue was 6,371 billion yen, while that of KDD was 322 billion yen.

39. *Nikkei Business*, May 13, 1996, p. 10.

While KDD's presidency has been assumed alternatively between KDD careers and MPT's retired bureaucrats, KDD has accepted additional three or four MPT officials. Accordingly, MPT sought to maintain KDD's interests by blocking NTT's entry into international business.⁴⁰

Although the debate over the NTT reform issue did not go smoothly, drastic changes in the telecommunications market in the mid 1990s forced parties concerned to settle down the issue swiftly. In the international scene, the world telecommunications market was rapidly changing as competition among major carriers became intensive. In February 1996, the U.S. Congress passed the amended Telecommunications Act, erasing regulations that segmented the local call business, long-distance call business, and cable televisions. On 3 November 1996, British Telecommunications (BT) announced a merger with MCI Communications, the second largest carrier in the United States. As a result, major telecom carriers were formed into three mega-groups: Global One, a consortium of Deutsche Telekom, France Telecom and U.S.-based Sprint Corp.; World Partners of AT&T Corp. and others; and Concert, made up of BT and MCI. Although NTT was the world's biggest telecom carrier in terms of sales, it could not lead or join any global alliances due to government restrictions. Furthermore, the rapidly growing global telecom markets raised NTT's costs of not engaging in international services. NTT lost opportunities to learn the most efficient and innovative services and to provide services for multinational corporations including Japanese corporations, which promoted their overseas operations further in the 1990s.⁴¹ The influence of international competition was seen in the Japanese market, the second largest market in the world. In October 1996, AT&T announced an entry into the market by call-back services, which would provide international calls at a 40 percent cheaper price than that of its Japanese rivals.

In response to these changes, NTT raised a sense of crisis in falling behind in competition with major carriers. NTT President Masashi Kojima, who stubbornly opposed a compromise with MPT over the reform issue, retired in June 1996, and Junichiro Miyazu succeeded to the position. He was keen to break into the world telecommunications markets,

40. In 1990, for instance, NTT had a plan to involve a privatisation project for a Mexican national telephone company and the privatisation of a mobile telephone service in Brazil. However, MPT refused to provide NTT with permission to participate. A major reason was that MPT feared that participation might lead to an undermining of KDD's position as the leading international carrier in Japan (Martin Fransman, *Japan's Computer and Communications Industry The Evolution of Industrial Giants and Global Competitiveness* (Oxford: Oxford University Press, 1995), p. 398).

41. Fransman, "NTT and Japan's Telecommunications Industry at the Crossroads," *op. cit.*, pp. 11-12.

especially the Asian markets where western carriers were rapidly making inroads. He would become the first Chairman of the Asia Multimedia Forum organised in June 1997. He had had the idea to establish an Asian-wide forum for multimedia in September 1996.⁴² A quick approval of international business was indispensable to promoting NTT's advancement into Asia.

Other actors tended to consider the approval of NTT's international business and the settlement of the NTT reform issue as being linked. However, the rising international competition also motivated politicians and business leaders to allow NTT to begin international services as soon as possible. In October 1996, the Economic Council released an interim report on the reform of the Japanese economic structure. The report suggested NTT's entering the international telecommunications sector in order to increase Japan's competitiveness in this field. Prime Minister Ryutaro Hashimoto was apprehensive of the delay in NTT's embarking on international business. Hashimoto could not join talks among the world leaders about the internationalisation of the telecommunications business at the Group of Seven Summit in Lyon, France in June 1996. This experience reportedly motivated him to consider NTT's international business more seriously.⁴³ Hashimoto suggested to Vice-minister Mitsuo Igarashi the following month that MPT consider the approval of NTT's embarking on international business. In August, NTT was also required to consider advancing in international business at a wise men's meeting at the Promotion Headquarters of the High Telecommunications Society headed by the Prime Minister. These factors encouraged MPT and NTT to resume negotiations on the reform issue.⁴⁴

NTT and MPT resumed negotiations on the reform issue in September 1996, but they did not go smoothly because MPT was stubborn in splitting NTT into several units and NTT opposed the breakup. However, NTT gradually showed a flexible attitude toward the breakup. It officially asserted that the breakup would contradict trends toward mergers in the world telecommunications business. But, in unofficial negotiations with MPT, NTT hinted at the possibility of accepting concessions in exchange for the approval of international business.⁴⁵ The

42. Interview with Norihiko Ohkubo, Senior Manager, NTT Global Business Headquarters, September 1997, Tokyo.

43. *Asahi Shimbun*, December 7, 1996.

44. The negotiations on the reform issue was suspended after the government decided in March 1996 to postpone the settlement of the issue until the next Diet regular session.

45. *Asahi Shimbun*, October 15, 1996.

announcement of the BT/MCI merger on 3 November 1996 accelerated negotiations between MPT and NTT. An executive official of MPT who pushed for the breakup stated that after the announcement of the merger, the guarantee of fair competition between NTT and NCCs became the second issue next to responses to international competition.⁴⁶ NTT President Miyazu also stated that, after the BT/MCI merger announcement, gaining entry into the international market had become NTT's 'top priority.'⁴⁷

In December 1996, NTT and MPT formally reached an agreement to bring an end to the 14-year dispute over the NTT reform issue. According to the agreement, NTT would be restructured into one long-distance and two regional carriers, all wholly owned subsidiaries of a single holding company. It was also agreed that the present NTT would be allowed to participate in international telecommunications businesses even before the implementation of the reform.

Although NTT and MPT agreed to reorganise NTT under the holding company system, detailed conditions of the reform remained as a critical and sensitive issue. NCCs hoped that financial and personnel relationships between NTT's operating units would be strictly separated in order to prevent unfair competitive advantage over them. They also expected MPT to impose tight regulations on the use and exchange of customer data between NTT's operating subsidiaries. On the other hand, NTT stressed the need to integrate the corporate power under the holding company system in order to compete with western carriers in fierce international competition.

MPT decided on the conditions of the NTT reform carefully with procedures to collect opinions from companies concerned. In June 1997, NTT requested that MPT approve NTT Worldwide Telecommunications Corp. (NTT-WT), which would conduct the type II international business. Three months later, NTT also submitted a proposal to establish NTT Worldwide Network Corp. (NTT-WN) for engaging in the type I international business. MPT asked parties concerned to submit opinions about these affiliates and conditions for the approval. In early October 1997, MPT published the draft of the basic principles concerning the NTT reform. Before determining the final form of the principles, MPT collected opinions from companies and associations concerned. Twenty-eight companies and groups including all major NCCs submitted proposals. NCCs demanded the strict separation of personnel and

46. *Nihon Keizai Shimbun*, November 19, 1996.

47. *Asian Communications*, January 12, 1997, p. 12.

business operations between NTT's operating units in order to ensure fair competition.

The final principles, announced in early December, took into account requests from NCCs by imposing a stricter regulation on some areas. For instance, the principles added one clause that results of research conducted by the holding company and regional carriers shall be disclose to other carriers under the same terms as NTT's long-distance company. The principles also stipulate that the regional companies undertake sales activities for the long-distance company only when this is necessary for maintaining users' convenience. However, the basic style of the principles was maintained. Although NCCs requested that the holding company, the long-distance company, and regional carriers would separate directors each other, the principles stipulate the separation between the regional companies and the long distance company alone. Thus, the principles demonstrate that MPT retreated from intervening in NTT's operations in order to ensure fair competition in the domestic market.

The promotion of regulatory reform was seen in other issue-areas. In May 1997, MPT removed the clause of regulation for market entry from the viewpoint of adjusting supply and demand from the Telecommunications Business Law. In November, MPT decided to revoke the KDD Law, which would change KDD from a special stock company that requires MPT's approval for appointing directors, mergers, processing profits and a range of other activities, to a fully privatised company. The abolition of the law was indispensable for enabling KDD to respond swiftly and flexibly to rapidly evolving business environments including a merger with other carriers.

In brief, the segmentation of local, long-distance and international services was introduced in the form of administrative guidance except for the service areas for NTT and KDD. MPT was reluctant to approve NTT's participation in international business both because of its adherence to create a level playing field between NTT and NCCs and favourable relations with KDD. The rising competition in the international telecommunications markets and the likelihood that NTT would fall behind its western rivals motivated the parties involved to remove regulations on the service areas. After the settlement of the NTT reform issue, MPT became willing to promote regulatory reform in the telecommunications industry.

Conclusion

This article began by questioning two assumptions: first, that globalised business activities and enhanced corporate competition become a catalyst to promote regulatory reform in Japan, and second, that the bureaucracy adheres policy orientations to mitigate radical changes in market order. The preceding examination of import liberalisation in the petroleum industry and deregulation in the telecommunications industry reveals complexity in utilising these assumptions.

The cases provide support for the first assumption. In both cases, the government imposed tight regulations on entry into the market and thereby maintained market order in the sectors. In the petroleum case, three requirements for import business virtually confined importers to the oil refining companies. In the telecommunications case, MPT adopted the market segmentation policy, and imposed tight control in each segmented market. However, enhanced international business played a catalytic role in transforming the interventionist system into a market-oriented one through changed preferences of major actors, although the process of influence was different between the two cases. In the petroleum case, the liberalisation of oil product imports was implemented in response to a demand for rectifying the gap between domestic and overseas prices under the overall trend toward deregulation. At the same time, MITI envisioned the expansion of the Japanese oil business to Asia, and some petroleum companies with a similar perspective supported the liberalisation policy. In the telecommunications case, the concern that NTT might be behind other telecom carriers in the international business scene shifted the main focus in the NTT reform issue from domestically oriented competition to international competition. The threat of global competition motivated NTT executives and the Prime Minister to promote the regulatory reform in the telecommunications industry.

Previously, international influence on policy changes in Japan was seen in the form of *gaiatsu*: direct pressure from foreign governments and firms. As already explained, the enactment of the petroleum import law was a response to pressure from the United States and the European countries to open the Japanese oil market. In the telecommunications sector, the U.S. government had a vital interest in NTT's procurement of telecommunications equipment, and exerted pressure for expanding procurement opportunities for foreign companies. The U.S. government also played a critical role in adapting the Motorola (a U.S. company) format to the mobile phone infrastructure in Japan. In the cases

examined here, domestic actors themselves shifted their stance on regulation to create better environments for international business.

As for the second assumption, the cases reveal complicated responses of bureaucrats to policy changes. In the petroleum case, MITI sought to manipulate the process and terms of policy reform and left significant entry barriers in order to minimise any negative impacts on the existing companies. As a consequence, the import liberalisation of oil products had meagre effects on new entry. In the telecommunications case, MPT adhered to linking NTT's entry into international business to NTT's breakup in order to create a level playing field for NCCs' survival in competition with NTT. However, MPT reduced its intervention in the market after it agreed to reform NTT under the holding company system. While MPT abolished regulations on market entry from the viewpoint of adjusting supply and demand, it agreed to privatise KDD in order to enable it to respond to evolving global business environments swiftly and flexibly.

The difference in outcomes of the regulatory reform between the petroleum and telecommunications sectors had much to do with the form and degree of technical evolution and resultant competition. In the telecommunication sector, major carriers compete in prices, quality and variety in services in the trend toward the multimedia era. In fact, there occurred unprecedented realignments within one year after NTT's management form issue settled down.⁴⁸ The new moves uprooted the static market order, which MPT maintained in the segmented regulatory system.

48. In March 1997, Japan Telecom and International Telecom Japan announced that they would join together in October 1997. This merger aimed to provide seamless-type services including domestic and international, and to augment corporate power in response to NTT's entry to international business. In August, KDD, DDI Corp., and Teleway Japan Corp. forged loose alliances such as joint offers of bills concerning domestic, long-distance and international services in summer. Then, in November 1997, KDD and Teleway announced to merge in October 1998.