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MY ASSOCIATION WITH JOHN JACKSON

*Mitsuo Matsushita**

I came to know John and Joan (Mrs. Jackson) in September of 1978 when I visited Michigan Law School for the first time. I taught at Harvard Law School as a visiting professor of Japanese law in 1977–78. I had known him through his writings on the General Agreement on Tariffs and Trade (GATT). I wanted to see him on my way back to Tokyo and so I asked Professor Whit Gray at Michigan Law School to introduce me to John.

I was waiting in a room at Michigan Law School and a tall man in a jumper with no tie appeared. It was John Jackson. Since that time, he and I have worked on a number of projects together. I have taught at Michigan Law School three times (each time lasting for about three weeks) at his suggestion and came to know John, Joan, and their family quite well.

Among a variety of projects in which he and I participated, there are two that I would like to mention. In 1984, John, Jean-Victor Louis, and I wrote a book entitled “Implementing the Tokyo Round” published by the University of Michigan Press. The Tokyo Round had been finished a few years earlier, and John thought that it was important to write a book in which the implementation of the Tokyo Round Agreements in major nations would be analyzed. I wrote the chapter dealing with Japan.

In the United States and the European Community, the legal issues of implementation were important. In the United States, there was a tension between the Congress and the Executive which negotiated international agreements. In the European Community, there was a problem of distribution of legal powers between the Community and the Member states.

In Japan, such constitutional or legal power relationship was not the core of the matter. The Cabinet negotiated international agreements and the Diet (the legislature) approved them. However, at the time of the Tokyo Round, the Liberal Democratic Party (“LDP”) held the majority in the Diet and practically all of the members of the Cabinet were appointed from among the LDP members of the Diet. There was no tension between the Diet and the Cabinet in the sense of that between the Congress and the Executive in the United States.

This is not to say that there was no rivalry in legislation and implementation of international agreements in Japan. Rivalries and conflicts

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occurred between ministries in which the real powers were invested. If the matter was liberalization of agricultural trade, for example, there would be fights between the Ministry of Agriculture insisting that the liberalization should be curtailed or delayed and the Ministry of Foreign Affairs whose position would be that liberalization should take place as early as possible.

Rivalries and conflicts in Japan were more benign and hidden compared with fights between the Congress and the Executive in the United States. In Japan, such battles are often fought behind closed doors and only a few pieces of information trickle down to the general public. Occasionally, newspaper reporters write a few stories, but that generally is not sufficient to fully inform the public.

When I wrote the chapter on Japan in "Implementing the Tokyo Round," my problem was how to compare implementation process of the Tokyo Round Agreements in Japan in which the important factor was not so much legal or constitutional as political and factual. I still do not know how successfully I could convey to readers this subtle difference between the United States and the European community on one hand and Japan on the other.

However, I learned that, in comparing the legal systems, one should not only examine the legal structure but also the functions of the systems in question. This calls not only for a legal analysis but also for a sociological, political, and economic analysis. It seems to me that we need to take in some parts of sociology, political science and international economics in legal analysis in order to deal with comparative study of this sort. As more and more non-western nations come into the area of international trade, notably China, a new methodology of analysis of this sort is more and more important.

In 1983, John and I participated in the United States/Japan Businessmen's Council. This Council was composed of prominent business persons both in the United States and Japan. Its annual report is highly respected both in the United States and Japan as representing views of business communities of both countries. The Council holds a joint conference every year.

In 1983, John was the legal advisor on the side of the United States, and I was the legal advisor on the side of Japan. In that year, the Council took up the question of trade law issues. Although the purposes of the Council was to announce a joint statement in which proposals for improving the relationship between the two countries were made, the process of negotiating the content was quite confrontational. The Japanese side insisted that there be paragraphs criticizing "multiple legal harassments" on the part of the United States government and busi-

nesses against Japan. Also, Japanese businessmen stressed that the United States Congress never ratified the GATT while Japan had ratified the GATT when it entered into it in 1955, and it was so unfair that the United States was not bound by the GATT. This view, though mistaken, was a widespread view in Japan.

John explained to the audience the meaning of “ratify” in the context of United States legal order and the fact that the United States indeed ratified the GATT. At that time, not many people in Japan were aware of the legal status of the GATT in the United States. Since that time, there has been no voice in Japan that the United States never ratified the GATT. I think that John played an important role in clarifying the position of the GATT in U.S. law. The Council’s report was somewhat vague on some points. This was inevitable due to the fact that that was the result of compromise between the United States business views on Japan and Japanese views on the United States. However, I believe that John’s contribution to this project was an important one.

Other than the above, I have had many occasions in which I sat on panels and conferences with him. He was a visiting professor at the University of Tokyo but unfortunately that was after I had left the University.

Last and not the least, I would like to mention a personal matter. My mother graduated from the University of Michigan in 1926 and earned M.A. degree in philosophy. One time, I mentioned this in passing to John and Joan. Joan went to the University archive and found the full records of my mother as a student and two complete sets of alumni books that contain my mother’s picture and everything. One of the two sets was meant for me and the other for my brother. They were really wonderful presents. In that alumni book, I found a poem written by my mother back in the middle of the 1920s. Since her English in that poem was so good, I suspect that someone must have fixed it.

Although I am not a graduate of Michigan, I am a member of the Michigan Alumni Association in Japan due to my visiting professorship there. As a member of this association, I feel sad he left Michigan. On the other hand, I taught at Georgetown also and am a member of the Georgetown Alumni Association in Japan. As a member of that, I am happy that John is affiliated with Georgetown. This is a sort of “divided loyalty.” In any event, I wish John and Joan all the best in professional and family life and bright future for both Michigan and Georgetown Law Schools.