CONSULTATION UNDER ARTICLE XII:4(b) WITH

NEW ZEALAND

Basic Document prepared by the Government of New Zealand

I. SYSTEM AND METHODS OF THE RESTRICTIONS

(a) Legal Basis of the Restrictions

The Import Control Regulations 1938, which entered into force on 7 December 1938, provide the legal basis for the import control imposed in New Zealand. These Regulations were made under the enabling powers of the Customs Act 1913 and the Reserve Bank of New Zealand Amendment Act 1936.

The control of imports was imposed, and has been maintained, for balance-of-payments reasons. The purpose of the Regulations is to restrict the importation of goods where such restriction is deemed necessary in the public interest -

(1) to assist in promoting and maintaining the economic and social welfare; and

(2) to enable the Reserve Bank of New Zealand pursuant to these Regulations, and to the Export Licences Regulations introduced at the same time, to fulfil its functions of regulating and controlling the transfer of moneys from New Zealand, and the disposal of foreign exchange derived from the export of New Zealand products.

Under the Import Control Regulations the importation of all goods, other than those exempted by the Minister of Customs by notice appearing in the New Zealand Gazette, is prohibited except pursuant to a licence. The Regulations prevail notwithstanding any authority for the importation of goods granted in accordance with any other provision of the law, nor does the granting of a licence under the Regulations with respect to any goods absolve an importer from compliance with any other provision of law relating to importation of such goods.

The full text of the Regulations as amended is set out in Annex I.

1 In view of the short time available to the secretariat for the preparation of the basic documentation for the consultation, it has not been possible in the case of the consultation with New Zealand for the secretariat to send a consultant to the country to prepare a basic document in collaboration with the authorities concerned. In these circumstances, the New Zealand authorities have kindly agreed to draft the document themselves.
(b) Administrative Basis of the Restrictions

The power to grant licences and to create exemptions is vested in the Minister of Customs.

The Regulations are administered by the Customs Department and the Minister's power to grant licences has been delegated to specified Officers of Customs.

Other Government departments, such as the Department of Industries and Commerce, the Treasury Department and the Department of Agriculture, function in a consultative capacity as regards various aspects of the control, and both the Board of Trade and the Reserve Bank of New Zealand advise the Government on policy issues involved. Trade Associations may also be consulted on occasion.

Licences are, in general, issued on a calendar year basis and, unless cancelled, are available for the importation of the specified goods at any time during the year. The goods must be imported before the end of the year since the licence will normally cease to be valid after that time. However, provisions exists for the extension of the time during which importation may be made although extensions are granted only for special reasons. The extensions may apply to all licences for a specified period, or only in respect of the cargo carried by a specified ship due in New Zealand before a licensing period expires but which for some good reason has not arrived in time. No fee is charged for the issue of import licences.

(c) Methods used in Restricting Imports

A. Import Licensing Categories

Imports into New Zealand are classed under seven categories for import control purposes. Notification of the categories under which items are classed is made in an Import Licensing Schedule which is published by the Customs Department about August of the year preceding the licensing year and in addition notification of exemptions from licensing, whether "E" or "EE" (see below) is given by the Minister from time to time in the New Zealand Gazette. The Schedule may be modified at any time after publication.

A copy of the 1958 Import Licensing Schedule is attached to this document as Annex II.

A brief explanation of the seven categories of imports is set out below:

1. "E" items include all goods which are exempt from the requirement of a licence when imported from and being the produce of any country other than a scheduled country (see below).
Tariff items and sub-items which are, in their entirety, exempt from the requirement of a licence under this category are omitted from the Import Licensing Schedule. Other exempt goods not forming complete tariff items or sub-items are shown in the Schedule with the symbol "E".

The Scheduled countries mentioned above are:

Bolivia  Dominican Republic  Honduras  Nicaragua
Canada  Ecuador  Japan  Panama
Colombia  El Salvador  Korea  Philippines
Costa Rica  Guatemala  Liberia  United States
Cuba  Haiti  Mexico  Venezuela

2. "EE" items are those items which may be imported from any country without the requirement of an import licence, ("global exemptions"). All such exemptions are listed in the Schedule.

3. "Basic" items comprise those items in respect of which licences are granted by reference to a previous representative period. Such licences are generally based on the value of licences issued for similar goods in the previous period but in some cases on the value or quantity imported. The provision of a basic allocation does not preclude the granting of additional licences, or licences to importers not qualifying for a basic licence, where circumstances warrant.

4. "C" items are those in respect of which applications for import licences are considered individually. This is the "case by case" method and licences are granted on such criteria as essentiality, availability, price considerations.

5. "S.D." items are those for which licences are issued to import particular goods of a class not made in New Zealand.

6. "D" items are those for which no allocation has been made and, until it is decided to make such provision, licences are granted only in exceptional circumstances.

7. "Deferred" items consist of those items in respect of which the import licensing category is not decided at the time the Import Licensing Schedule is issued. Licences for these items are not issued until the import licensing category has been decided and notified. Ultimately all "deferred" items are re-classified into one of the other import licensing categories.

In addition to the imports provided for under the above categories there is a token licence scheme in respect of certain goods for which "basic" licences are not normally issued. These licences are restricted to goods
which were obtained principally from the United Kingdom during 1938. The number of items not now covered by exemptions or by other provisions for licences is small and the token licence scheme is of little significance.

B. Bilateral Arrangements

New Zealand has no bilateral arrangements providing for import quotes or for the granting of import licences.

C. Prohibited Imports

Certain imports are prohibited or restricted on such grounds as health, public interest, morals and the prevention of stock and plant diseases. These prohibitions are of the types in force in most countries and are of only minor significance in the restriction of imports.

D. Proportion of Imports under each Category

It is not possible, for statistical reasons, to give details of imports under each of the import licensing categories mentioned above. However, the following table shows imports under four broad import licensing categories. The total imports shown in this table represent the actual total payments for imports recorded by the Reserve Bank of New Zealand, but the figures shown for individual categories are estimated based on bank payment and cif import statistics.

<table>
<thead>
<tr>
<th></th>
<th>1954</th>
<th>1955</th>
<th>1956</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imports under global exemptions</td>
<td>£(NZ)000</td>
<td>£(NZ)000</td>
<td>£(NZ)000</td>
</tr>
<tr>
<td>Imports of goods exempted from non-scheduled countries</td>
<td>2,176</td>
<td>40,601</td>
<td>61,364</td>
</tr>
<tr>
<td>Imports of items subject to control</td>
<td>187,773</td>
<td>178,997</td>
<td>163,635</td>
</tr>
<tr>
<td>Imports of items subject to State trading</td>
<td>38,440</td>
<td>38,205</td>
<td>24,958</td>
</tr>
<tr>
<td>Total imports:</td>
<td>237,753</td>
<td>267,044</td>
<td>256,778</td>
</tr>
</tbody>
</table>

(d) Treatment of Imports from Different Countries or Currency Areas

All imports from scheduled countries, except those covered by "global" (EE) exemptions, are subject to import control.
In general applications for licences to import goods from scheduled countries are considered individually. Certain criteria such as essentiality, availability from other sources, significant price differences, delivery dates and suitability for New Zealand conditions are taken into account.

"Basic" allocations do not usually apply to imports from scheduled countries but some special basic allocations have been made for imports from Canada and the United States of certain goods of types normally obtained from those countries.

Licences to import goods from scheduled countries specify the country of supply. These licences cannot be transferred from one scheduled country to another, or to a non-scheduled country, without approval. In some cases the licence will provide for alternative sources of supply, e.g. Canada/United States.

Imports from non-scheduled countries are subject to import control unless they are covered by exemptions (either "E" or "EE" items). Licences are issued without specifying country of supply and they may be used to import the goods from any non-scheduled country.

(e) State Trading or Government Monopoly

The only commodity imported as a State trading enterprise is wheat. Citrus fruit, bananas and pineapples are imported by an organization of merchants having, by agreement with the Government, the exclusive rights of importation. This procedure was introduced to ensure the orderly supply and marketing of these fruits.

Until the end of 1956 cement was imported by an organization of domestic producers set up to pool prices and supplies. However, with increased local production there was no longer need for this organization and cement is not now subject to import control.

(f) Measures taken to Relax Restrictions

The operation of import control in New Zealand is under continuous review and controls are relaxed as conditions permit. Each year the list of items remaining subject to control is carefully examined and even during periods of adverse balance of payments the policy of relaxation has been continued. Thus the list of items subject to control has been progressively reduced from 950 items in the 1950 Import Licensing Schedule to 263 items in the 1957 Schedule.

At the same time steps have been taken to increase the number of items subject to "global" exemptions and at present 170 items are covered by such exemptions.
II. EFFECTS ON TRADE

The Import Control Regulations were introduced, and have been maintained, for the sole purpose of safeguarding New Zealand’s balance of payments which, dependent as it is on the export of a narrow range of primary products whose prices tend to fluctuate rapidly, has been traditionally precarious.

As is inevitably the case in any country which finds it necessary to introduce some system of import control, the incidental protective effects of the New Zealand system have led to the establishment of some new industries and have benefited some existing industries. But other, and equally important factors leading to the establishment of these new industries were the necessity to increase domestic production during the war years when New Zealand’s access to traditional sources of supply was greatly reduced, and the need to diversify the economy in order to maintain the living standard of a rapidly increasing population. It is very difficult to estimate the effect which import control has in conferring incidental protection on individual industries, but this question is being considered by the New Zealand Board of Trade in its current general review of the tariff.

It has been New Zealand’s policy to relax import control as rapidly and as extensively as conditions permit and the point has already been reached where 90 per cent of all imports are free from import control. At the same time the volume and value of imports have been steadily increasing.

As a country with a greater dependence on overseas trade than most, New Zealand is well aware of the advantages to be gained from unrestricted multilateral trade and is anxious to contribute to this objective to the maximum possible extent. For this reason the possibility of further liberalizing imports is under constant review but it is inevitable that the policies of other countries, particularly in regard to agricultural products, will affect the extent to which New Zealand is able to proceed in this direction. However, so long as restrictions on imports must be maintained it is New Zealand’s policy to apply them in such a way that the least possible difficulty is caused to its trading partners.

ANNEXES

I. The Import Control Regulations 1938.

II. Import Licensing Schedules for 1958.

1 These Annexes are circulated in the English language only. Only one copy of Annex II is supplied to each contracting party.
ANNEX I

THE IMPORT CONTROL REGULATIONS 1938

GALWAY, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington,
this fifth day of December, 1938.

Present:


Pursuant to the Customs Act, 1913, and the Reserve Bank of New Zealand
Amendment Act, 1936, and to all other powers enabling him in this behalf,
and being of opinion that the prohibition of the importation of goods here­
inafter referred to is necessary in the public interest and to the end that
the economic and social welfare may be promoted and maintained and to enable
the Reserve Bank of New Zealand to fulfil its functions of regulating and
controlling the transfer of money from New Zealand and the disposal of moneys
that are derived from the sale of any New Zealand products and for the time
being are held overseas, His Excellency the Governor-General, acting by and
with the advice and consent of the Executive Council, doth hereby make the
following regulations.

REGULATIONS

Preliminary

1. These regulations may be cited as the Import Control Regulations 1938.

2. These regulations shall come into force on the seventh day of
December, 1938.

3. In these regulations:

"Minister" means the Minister of Customs:

"Licence" means a licence issued under the authority
of these regulations:

"Licensing Officer" means an officer of Customs being the
Comptroller of Customs, or a Collector of Customs, or any
other officer of Customs authorized by the Minister to act
as a licensing officer for the purposes of these regulations.
**Importation of Certain Goods Forbidden**

4. The importation into New Zealand of any goods is hereby prohibited except:

   (i) Importation pursuant to a licence granted by the Minister as hereinafter provided;

   (ii) importation pursuant to an exemption granted by the Minister under clause 15 of these regulations.

5. The provisions of the last preceding clause hereof shall apply notwithstanding that a licence or permission to import any goods may have been heretofore granted or may hereafter be granted in accordance with any other provision of law, and the issue of a licence under these regulations shall not absolve any person from compliance with any other provision of law relating to the importation of goods.

**Application for Licences**

6. Any person desiring to obtain a licence to import any goods shall make application in writing signed by the applicant or by some responsible servant of the applicant on his behalf in the form set out in the schedule hereto.

7. Every such application shall be delivered to the Collector of Customs at the port at which it is proposed to import the goods in respect of which the application is made: Provided that in any particular case the Minister may approve of delivery of the application to the Comptroller of Customs.

8. Every such applicant shall in addition to the particulars required by the said form supply to the Collector such further information relating thereto as the licensing officer may require.

9. Every application for a licence to import goods at a stated time or within a stated period shall be made at such date prior to the proposed time or period of importation as the Minister may require.

**Grant of Licence**

10. The Minister may in his discretion grant a licence in respect of all the goods included in any application or in respect of part only of such goods or may decline to grant any application.

11. The Minister may grant any licence subject to such conditions as he thinks fit to impose, and in particular any licence may specify a period within which goods comprised in the licence may be imported.
12. The Minister may from time to time:

(a) by notice in writing to the licensee, revoke any licence or modify the terms thereof; or

(b) by notice in the Gazette, revoke any licence or licences or any class or classes of licences or modify the terms thereof;

provided that any such revocation or modification shall not affect the continued operation of the licence or licences in respect of goods which at time of revocation or modification have been shipped from the country of export to New Zealand.

Delegation and Reconsideration

13. Pursuant to Section 11 of the Customs Act, 1913, the Minister may from time to time by writing under his hand delegate to any licensing officer, the powers of granting, revoking, and modifying licences hereby conferred on the Minister.

14. If any applicant or licensee is dissatisfied as to the grant, refusal, revocation, or modification of a licence, or the conditions imposed on the grant of a licence, and such grant, refusal, revocation, modification, or imposition of conditions was the act of a licensing officer acting as the delegate of the Minister, such applicant or licensee may by notice in writing apply to the Minister for reconsideration of the act complained of, and may submit in writing such considerations as he thinks fit in support of his application, and the decision of the Minister upon reconsideration shall be final.

14 A. 1. The Minister may from time to time, by writing under his hand, either generally or particularly delegate to the Board of Trade established under the Board of Trade Act, 1950, all or any of his powers and functions under these regulations, but not including this present power of delegation.

2. Subject to any general or special directions given or conditions attached by the Minister, the Board of Trade may exercise any powers or functions delegated to it under this regulation in the same manner and with the same effect as if they had been conferred on the Board directly by this regulation and not by delegation.

3. Where the Board purports to act pursuant to any delegation under this regulation it shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.
4. Every delegation under this regulation shall be revocable at will, and no such delegation shall prevent the exercise of any power or function by the Minister or by any licensing officer acting pursuant to a delegation under regulation 13 hereof.

5. Any delegation under this regulation shall, until revoked, continue in force according to its tenor, notwithstanding that the Minister by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Minister.

**Exemption**

15. The Minister may at his discretion from time to time by notice in the Gazette exempt from the requirement of a licence under these regulations any particular goods or classes of goods or goods imported from any particular country or countries, and may from time to time by like notice withdraw any such exemption: Provided that such withdrawal shall not affect the continued operation of the exemption in respect of goods which at the time of withdrawal have been shipped from the country of export to New Zealand.

**Offences**

16. Every person who makes or causes or permits to be made any application that is false or misleading in any material particular or who supplies false information in connexion with any application or licence under these regulations or who otherwise fails to comply with these regulations is guilty of an offence against the Customs Acts and shall be liable accordingly.