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.

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1This document is primarily based on data supplied by New Zealand. Part II consists of a statement by the New Zealand authorities.
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 exist 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.

Methods used in Restricting Imports

A. Import Licensing Categories

The 1959 Import Licensing Schedule which came into effect on 1 January 1959 was announced on 6 October 1958\(^1\). The Schedule makes provision for three import licensing categories:

1. "Basic"Items

Basic items have been a regular feature of the New Zealand import licensing system. As in the past they comprise the items in respect of which licences are granted by reference to a previous representative period. The licences may be based on the value of licences issued for similar goods in a previous period or they may be based on the value or quantity of similar goods imported during a previous period. 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.

\(^1\)This Schedule should be deemed to constitute Annex II to the present document. Arrangements are being made for copies to be available to the contracting parties. In the meantime, a copy is on file at the secretariat where it may be consulted.
2. "C" Items

Applications for licences to import goods classed under these items are considered individually. Licences are granted on such criteria as essentiality, availability, price, etc.

3. "D" Items

No allocation has been made for these items. Licences may, however, be granted under exceptional circumstances.

(B) Bilateral Arrangements

New Zealand has no bilateral arrangements providing for import quotas 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

Up to the time of writing this paper no data have been received from the New Zealand Government which has advised that the import licensing schedule which was introduced on 1 January 1958 involved significant changes in the policy and administration of import control and that until the 1958 statistics are available it will not be possible to give details of the proportion of imports under each category.

Treatment of Imports from Different Countries or Currency Areas

The 1959 Import Licensing Schedule introduces a significant change. "Global" licences are used on a far greater scale than ever before. Of the 685 "Basic" and "C" items in the existing Schedule all but 72 are available for imports from any country in the world.

Applications to import from Scheduled countries goods classed under the 72 items which are not subject to "global" licences are considered under the "C" category, but within this category administrative provision is in fact made for the issue of basic licences for most of these items. Licences to import from Scheduled countries goods classed under these 72 items specify the country of supply and cannot be transferred from one Scheduled country to another, or from a Scheduled to a non-Scheduled country, without approval. In some cases the licences provide for alternative sources of supply, e.g. Canada/United States.
The following is the list of Scheduled countries:

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

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.

Measures taken to Relax Restrictions

As there has been no improvement in the position of New Zealand's balance of payments and external reserves it has not yet been possible to undertake any relaxation of the import control imposed on 1 January 1958. However, as in previous years, the operation of the system is being kept under continuous review. Furthermore, under the 1959 Import Licensing Schedule, applications for "basic" licences are to be lodged by 31 January 1959. This is a new requirement designed to enable the Government to find out as early as possible the amount actually committed in "basic" licences. When this has been ascertained the Government will be in a position to make a more accurate assessment of the situation, particularly of the amount of overseas funds that will be available to meet unforeseen essential needs during 1959.

II. EFFECTS ON TRADE

(Statement by the New Zealand Government)

The import control regulations are designed to safeguard New Zealand's reserves of foreign exchange. New Zealand exports a narrow range of primary products whose prices are subject to frequent and often extensive fluctuations. These movements are of great importance to New Zealand because the proportion of the country's national income derived from exports is one of the Highest in the world.
The overall balance-of-payments position has been made very difficult by the continued low price for wool. In addition, the markets for dairy products have been seriously affected by protectionist agricultural policies in Europe and North America and normal commercial markets have been disrupted by the sale of heavily subsidized products. Consequently, despite a reduction in imports and a substantial programme of overseas borrowing, the foreign exchange reserves at the end of 1958 were still at an extremely low level.

Because of the continued shortage of foreign exchange, New Zealand has been forced to maintain direct control over imports.

In allocating the limited exchange available, it has been necessary to give preference to essential imports. Consequently, the impact of the import controls on different countries has varied, depending on the type of commodity that they export to New Zealand. Nevertheless, in the framing of the import licensing allocations and the administration of the controls every effort is made to avoid unnecessary disruptions to established trade.

In keeping with the policy of removing discriminatory restrictions against the dollar area as circumstances permit provision has been made in the 1959 Import Licensing Schedule for the issue of licences on a "global" basis for most goods. Imports under these licences may be made from any source, including the dollar area.

Any system of import control is accompanied by some incidental protection for domestic industry. However, no encouragement has been given to the establishment of industries which would flourish only during a period of shortage. The Government has, on many occasions, warned industry that it could not depend on continued protection, and that industries when expanding production or entering new fields must have regard to their competitive position when restrictions on imported goods are no longer necessary.

LIST OF ANNEXES

I. The Import Control Regulations, 1938.

II. Import Licensing Schedule for 1959.
   (A copy of this will be 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 hereinafter 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. Those 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.