CONSULTATIONS UNDER ARTICLE XII:4(b) WITH

JAPAN

Draft Basic Document prepared by the Secretariat

I. SYSTEM AND METHODS OF THE RESTRICTIONS

(a) Legal Basis of the Restrictions

The statutory basis of foreign exchange and foreign trade controls is the "Foreign Exchange and Foreign Trade Control Law" of 1 December 1949 (Law No. 228), extracts of which are reproduced in an annex to the present document (see Annex 1). Under this Law, controls may be maintained for achieving a proper development of foreign trade, for safeguarding equilibrium in the balance of payments and the stability of the currency and for ensuring the most economic use of foreign exchange with a view to reconstructing and expanding the national economy. Article 2 stipulates that the provisions of the Law and of Orders issued thereunder to implement it shall be revised in order to relax and eliminate the restrictions when they are no longer required.

The Law sets up a Ministerial Council (Article 3) which is responsible for the preparation of foreign exchange budgets in accordance with the principles laid down in the Law.

As regards foreign exchange control the Law stipulates that trade transactions authorized under the Law must be effected in accordance with regulations of the Ministry of Finance concerning the prescription of currency. By authority of this Law, Cabinet Orders to the effect of requiring all foreign exchange to be surrendered may be issued.

(b) Administrative Basis of the Restrictions

To implement the Law on foreign exchange and foreign trade control the Government issued several Orders, the most important of which are Cabinet Order No. 203 of 27 June 1950 concerning the control of foreign exchange and Cabinet Order No. 414 of 29 December 1949 concerning the control of import trade. These Cabinet Orders which have been amended several times are further implemented by Ordinances issued by the Ministry of Finance and the Ministry of International Spec/97/57

English only
The exchange and trade control authorities include the Ministerial Council in charge of the foreign exchange budget, the Ministry of Finance and the Ministry of International Trade and Industry. The Ministerial Council is an organ of the Cabinet and is composed of the Minister of International Trade and Industry, the Minister of Finance, the Prime Minister in the capacity of Chairman and the Governor of the Bank of Japan as an advisory member. It is responsible for drawing up, passing and revising the foreign exchange budget in which expenditure for imports and other requirements are planned on the basis of anticipated receipts from exports, other current income and reserve funds. The budget is drawn up on a semi-annual basis. Government agencies responsible for authorizing the use of the funds thus budgeted cannot increase the amount allocated to any specific categories without the approval of the Ministerial Council. In order to give elasticity to the operation of the budget, a reserve fund is provided for each type of currency settlement. The budget may be modified only by the Ministerial Council.

The semi-annual budget serves as a basis for the establishment of an import plan, and import announcements are made in accordance with this plan. The foreign exchange budgets for commodity imports for the two six-months periods of the fiscal year 1956-1957 (1 April 1956 - 30 September 1956 and 1 October 1956 - 30 March 1957) and for the first period of the following fiscal year are reproduced in Annex II.

(c) Methods used in restricting Imports

Apart from certain types of imports which are exempt from the licensing requirement and which are listed in Annex III, all imports require licences. Imports provided for in the exchange budget are communicated through import announcements which are made from time to time by the MITI. Imports not requiring payment, goods imported for processing and re-export, imports under compensation
arrangements or under the special Foreign Exchange Allocation System are, however, not covered by import announcements.

There are at present two main licensing procedures for imports of goods for which foreign exchange is provided for in the budget, namely: the exchange allocation system and the automatic approval system.

(i) Under the "Allocation of Foreign Exchange" import procedure the importer must first secure a foreign exchange allocation certificate from the MITI. To obtain exchange allocations importers must meet the qualifications specified in the import announcements. The MITI may allocate less foreign exchange than the amount applied for and can also impose conditions in regard to delivery time, price and other matters. The allocation certificate is neither negotiable nor transferable but may be assigned to an importer to effect the import in case the applicant is not an importer himself.

Licences, in the form of approved import declarations, are issued by authorized foreign exchange banks within the limits of the foreign exchange allocation. Since the total amount of foreign exchange allocated can be used in installments, each time the bank issues an import licence, the amount of foreign exchange utilized is entered on the reverse of the allocation certificate. Allocation certificates must be returned to the MITI before expiration. Depending on the type of goods to be imported, the foreign exchange allocation certificates and the corresponding licences may be issued on a global quota basis without regard to the country of origin or the currency of settlement or are valid for designated sources of supply only. Most commodities that come under the allocation of foreign exchange system may be imported on a global quota basis without designation of currency to be used for settlement. The main exceptions are certain foodstuffs, raw materials and other essential goods.

Individual quotas for specified commodities to be imported from designated sources may be established in accordance with commitments.

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1 See page 5
undertaken in trade agreements or to facilitate compensation transactions. Trade agreements and compensation arrangements are further described in section (f) of this document.

The total exchange allocations for items in this category represented 83.8 per cent of the total foreign exchange budget in the fiscal year 1955-56, and covered some 500 items including rice, wheat, barley, soya-beans, sugar, potassium salt, raw cotton, raw wool, machinery, etc.

(ii) For commodities covered by the "Automatic Approval System", individual licences are issued freely on application. Foreign exchange is appropriated in the budget for all eligible items. The original amounts appropriated in the budget may be supplemented if found inadequate. If the amounts appropriated for the currency area, or the amount of the country concerned, have been used up and no supplementary appropriations have been made, licences may be refused. Under the automatic licensing system different lists of specified commodities apply to different currency areas and certain payment-agreement countries; but nearly 60 per cent of the items subject to this type of licensing are on an all-currency area list. This list includes maize, wheat, rice bran, synthetic rubber, linseed, cottonseed, dyestuffs and wool waste. For goods not on this list the sources of imports are specified, for example crude rubber and tin are not admitted from the "dollar treatment area". In the second half of the 1956/57 fiscal year this licensing procedure covered 559 items including corn, wheat and rice bran, crude rubber, cottonseeds, scrap iron, etc. In the fiscal year beginning October 1955, 16.2 per cent of the foreign exchange budget was allocated for imports under this category.

1 The dollar treatment area includes Afghanistan, Bhutan, Bolivia, the Belgian monetary area, Canada, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, the Dominican Republic, Sweden, Eastern Germany, Guatemala, Haiti, Honduras, Hungary, Liberia, Nicaragua, Mexico, Monaco, Panama, Paraguay, Peru, El Salvador, Spain, Switzerland, the United States of America and United States dependencies and the USSR.
Licences for imports under the exchange allocation or the automatic approval system are normally issued by authorized banks but prior approval by the MITI is required when the proposed payments are not in accordance with the prescribed methods of settlement, or when the imports are in excess of the limits specified in the import announcement or come from sources other than those designated therein.

Certain imports for which no foreign exchange is appropriated in the budget can be effected under the simplified procedure of the "Special Foreign Exchange Allocation System". Exporters of certain goods are entitled to retain a certain amount of their foreign exchange earnings. In practice the retention takes the form of import rights. Such import rights, which are outside the regular exchange budget, are transferable and have recently been commanding a premium. They can be used under a simplified procedure for the import of certain goods specified by the MITI (mainly certain chemicals and non-essential goods), and for any one of the following six purposes:

1. Expenses for travelling or staying abroad for the promotion of foreign trade.
2. Advertising expenses, propaganda expenses, investigation expenses and other similar expenses connected with foreign trade.
3. Freight, insurance, premium, "quick despatch money", demurrage, examination fee and other similar expenses on goods to be imported by the use of the export promotion foreign exchange.
4. Expenses which are necessary to the commercial companies of the country for establishing or operating the branches, sub-branches, etc. in foreign countries.
5. Goods which are deemed to contribute to the promotion of export trade and rehabilitation or stability of economy.
6. Samples, catalogues, credit investigation records and other similar materials concerning foreign trade.

The percentage of the retention was reduced from 10 per cent in 1953 to 5 per cent in 1954. In January 1957 it was further reduced to 3 per cent and the period of permissible utilization was reduced from seven months to three months.
Imports which do not require any outlay of foreign exchange, are admitted under a special licensing system and require prior approval of the MITI. This import procedure applies to: (a) imports for public welfare such as charity, religious activities, educational and scientific purposes, (b) gifts and (c) commercial samples (excluding those which do not require licences). In the 1955-56 fiscal year, imports under this category amounted to 3.2 per cent of the total import value.

Though there is no token import scheme in Japan, imports of non-essential goods are permitted in the minimum commercial quantities. No licence is required for imports of free commercial samples which are valued at less than $500. Imports of free commercial samples which are valued at more than $500 are also permitted if it is assured that the articles will not be used for other purposes.

The issue of individual licences is generally subject to an advance deposit, amounting to a specified percentage depending upon the source and the category of the goods. The percentage is usually higher for goods for which the chances of speculative applications for licences are large. Deposits must be made with an authorized bank with the application for licence and are returned after the import has been made. In cases of failure to import, the deposit is confiscated unless for reasons acceptable to the control authorities.

The deposit requirement applies to certain non-essential commodities such as tobacco, coffee, liquor, cheese, cocoa, lemons, watches and automobiles. On 4 June 1957 deposits, previously ranging from 3-5 per cent of the invoice value, were raised to levels between 10 and 35 per cent. In addition, whereas formerly the deposit could be made in national bonds or bank letters of guarantee, as from 4 June 1947 all deposits had to be made in cash.

As a rule importers file applications for licences with the authorized foreign exchange banks. When the application conforms to the terms of the import announcements and all other import control regulations and when the payment is in conformity with the regulation of the "Standard Methods of Settlement", import licences are issued provided sufficient foreign exchange remains for the item in question. In case the above conditions are not fulfilled a prior approval must be obtained from the MITI.
Licences for imports to be settled in dollars and sterling are, unless otherwise specified, valid for four months. The validity of the licence for imports originating in the open account countries is six months except in the case of South Korea, the Philippines and Taiwan for which the currency period is only three or four months. An extension of the validity of the licence may be approved by the MITI.

Some imports are prohibited on medicinal grounds or for reasons of public interest, morals, etc. The goods falling in this category are listed in Annex IV to this Report.

(d) Categories of Goods affected

Commodity Import Budget
First Fiscal Half Year 1957-1958

Estimated quantities of the more important commodities to be imported are indicated below.

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rice</td>
<td>450,000 tons</td>
</tr>
<tr>
<td>Wheat</td>
<td>1,040,000</td>
</tr>
<tr>
<td>Barley</td>
<td>516,000</td>
</tr>
<tr>
<td>Sugar</td>
<td>600,000</td>
</tr>
<tr>
<td>Soya-beans</td>
<td>419,000</td>
</tr>
<tr>
<td>Beef tallow</td>
<td>65,000</td>
</tr>
<tr>
<td>Raw cotton</td>
<td>1,290,000</td>
</tr>
<tr>
<td>Raw wool</td>
<td>400,000</td>
</tr>
<tr>
<td>Coal</td>
<td>2,025,000</td>
</tr>
<tr>
<td>Iron ore (excludes imports under Automatic Approval)</td>
<td>450,000</td>
</tr>
<tr>
<td>Scrap iron</td>
<td>576,000</td>
</tr>
<tr>
<td>Pig iron</td>
<td>150,000</td>
</tr>
<tr>
<td>Crude oil</td>
<td>41,960,000</td>
</tr>
</tbody>
</table>

Note: The amounts for various classes of goods to be imported from the dollar countries, sterling area and open account countries have not been published. List to be completed in Tokyo.

(e) Proportion of Imports covered by each Method used

[f] To be completed in Tokyo.

(f) Treatment of Imports from different Countries or Currency Areas

Difference in treatment of imports from different countries or currency areas arises from the allocation of foreign exchange quotas by currency areas or countries under the allocation of foreign exchange procedure and from the
designation in certain cases of the source of imports under the automatic approval system. Imports which are not covered by foreign exchange budget and are decided on an ad hoc basis by the control authorities are also treated differently according to the source of supply and the currency of settlement.

Generally a distinction is drawn between the "dollar treatment area", the "sterling treatment area" and the open account countries. In addition, within these broad groups of countries, import restrictions are applied differently taking account of the commitments undertaken in trade agreements, the treatment accorded to Japanese goods by each country, the degree of convertibility and transferability of the currency of settlement, the trend of the trade balance with each country or currency area.

An important part of Japan's foreign trade is conducted under bilateral trade and payments agreements. Agreements with quota schedules for the trade are in force with several countries. With nine countries agreements are maintained which contain lists of commodities to be exchanged without indication of quantities.

Open, or bilateral, account agreements to equalize trade with various countries are being gradually replaced by arrangements providing for cash transactions settled in transferable currencies, usually pounds Sterling. Such agreements are still in force with Brazil, Egypt, Greece, South Korea, the Philippines, Taiwan and Turkey. With these countries settlement must be made through the clearing account. However, incoming payments may also be received from those countries (except Egypt and the Philippines) in pounds Sterling or in dollars.

Imports under private barter contracts are subject to the prior approval of the MITI which is granted on a case by case basis. However, from time to time principles are outlined for the guidance of importers. Barter transactions are permitted when necessary to promote the expansion of new markets in the Middle East and in Latin America and to adapt to the foreign trade and exchange systems of some countries which favour such a form of trade e.g. the State trading countries. Products which can be bartered with various areas are classified in several lists which apply to various countries or groups of countries. One list, for example, is valid for Mainland China and permits imports under this scheme
of rice against flour, sugar, agricultural chemicals, etc. With most countries
of the sterling area and the dollar treatment area no barter transactions are
allowed.

**Estimates of Imports under Barter Transactions**

<table>
<thead>
<tr>
<th>Period</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 1955 - 30 September</td>
<td>$67.6 m.</td>
</tr>
<tr>
<td>October 1955 - 30 March 1956</td>
<td>$63.7 m.</td>
</tr>
<tr>
<td>April 1956 - 30 September 1956</td>
<td>$36.2 m.</td>
</tr>
</tbody>
</table>

(g) **Use of State Trading or Governmental Monopoly; restrictive Operation
of such Regimes**

The Government does not directly participate in import trade. In
certain cases, however, importers are required to sell specified goods imported
under the usual procedures to the Government or to the monopoly agency.

In the first fiscal year 1955/56, rice, wheat, barley, and leaf tobacco were
under this category. Their total import value represented about 17 per cent
of imports during that fiscal year.

(h) **Measures taken in preceding Years to relax Restrictions**

The semi-annual foreign exchange allocations set out in the budget have been
gradually increased in recent years concurrently with the expansion of the foreign
exchange receipts. The new budget published on 30 March 1957 provides for total
imports of $2,236 million. This represents an increase of 20 per cent as compared
with the amounts appropriated in the corresponding period of the previous year.

On several occasions new items have been added to the list of commodities to
be imported under the automatic approval procedure. The latest addition includes
phosphate rock and a miscellaneous range of chemicals and pharmaceutics.

Discrimination under the present control system has been progressively
lessened by extending the scope of the global quota imports, by the abolition of
the "first-come-first-served" import procedure and by the termination of many open
account arrangements. On 14 November 1956 a number of measures were introduced
to simplify the import controls.
More recently, however, in view of the rapid decline in exchange reserves, measures have been taken to check the rapid rise in imports. In order to restrain domestic demand, bank credit was tightened early in May 1957. The MITI also decided to raise the percentage of import value to be deposited under the Special Foreign Exchange Allocation System.

Chronologically, the most important changes in the restrictions since 1 January 1955 are the following:

- On 1 March 1955 the authorities announced the reduction from 10 to 5 per cent in the retention quota applying to export proceeds under the "Special Foreign Exchange Allocation System."

A decision of the MITI of 31 March 1955 abolished the export/import linking procedures.

- On 1 October 1955 the open account arrangements with the Federal Republic of Germany were terminated.

The open account with Italy was closed on 14 January 1956 and trade between the two countries was placed on a cash basis.

Under a new trade agreement signed with Sweden, the open account was closed on 14 April 1956. Payments between the two countries would henceforth be effected in Swedish Kroners, transferable Sterling or other mutually agreed currencies.

- On 16 April 1956 the open account arrangements with Thailand were terminated and it was agreed to settle trade between the two countries in United States Dollars, pounds Sterling or other mutually agreed currencies.

By decision taken in September 1956 iron ore, pig iron, non-metallic ores and cotton linter were transferred from the Exchange Allocation System to the Automatic Approval System.

The open account arrangements with Argentina were cancelled on 1 October 1956. Transactions would henceforth be settled in transferable Sterling.

- On 26 October 1956 the trade and payments agreement with Uruguay were modified, to make greater use of Sterling.
On 29 December 1956 the open account with the French Union was closed and substituted by a system of settlements in transferable French Francs and pounds Sterling.

On 1 January 1957 the percentage of exports proceeds up to which exporters are entitled to receive import rights under the Special Foreign Exchange Allocation System was reduced from 5 to 3 per cent.

In the budget for the first half of the fiscal year 1957/58 published in March 1957 the list of commodities subject to automatic approval was extended to cover about thirty new items including phosphate ore, certain chemicals and medical supplies.

In accordance with a new agreement signed with Finland the open account was closed. Payments between the two countries would be effected in pounds Sterling.

On 4 June 1957 the MITI increased the advanced deposits required for obtaining import licences. They were raised from 3 and 5 per cent to between 10 and 35 per cent of the invoice value.

In June 1957 agreement was reached with the Netherlands to put mutual trade on a transferable Sterling or Guilder basis.

II. EFFECTS OF THE RESTRICTIONS

(a) Protective effects of the restrictions on domestic production
(b) Difficulties or hardships that may be expected upon relaxation or elimination of the restrictions
(c) Steps taken to reduce incidental protective effects of the restrictions
(d) Steps taken to minimize difficulties of transition to the stage where balance-of-payments restrictions may be eliminated
(e) Steps taken to avoid unnecessary damage in accordance with Article XII:3(c)

(The whole of Section II is to be drawn up after the discussions in Tokyo.)

ANNEXES

To be included.