Note by the Secretariat

1. The Conclusions reached at the twenty-fifth session of the CONTRACTING PARTIES state that the Committee on Trade in Industrial Products, in examining non-tariff and para-tariff barriers, should explore the possibilities for concrete action in this field, with regard to reducing and removing such barriers and to developing possible rules of conduct, and that the particular problems of developing countries should be given special attention in the further action by the contracting parties in this field (L/3155, paragraphs 12 and 13).

2. In preparation for the work of that Committee an inventory of non-tariff and para-tariff barriers has been drawn up on the basis of notifications by governments and this has been circulated first on a country-by-country basis (COM.IND/4 and addenda) and then on a barrier-by-barrier basis (COM.IND/6 and addenda). Apart from providing assistance to developing countries in preparing notifications on non-tariff and para-tariff barriers to their trade for inclusion in the inventory, the secretariat has felt that it might be of help to the Committee and to developing countries if it were to analyse the existing inventory and to list those barriers mentioned in it as being maintained by developed countries which, prima facie, appeared likely to have direct effects on the exports of developing countries. The present document is an index of this nature to the entries in COM.IND/6 and addenda.

3. Information on quantitative restrictions has been omitted from the present index in view of the more comprehensive information already available on such restrictions applied by developed countries on products of interest to developing countries in the context of the Group on Residual Restrictions and elsewhere.

4. It will be seen that some of the non-tariff barriers reported as being maintained by particular countries have no defined product coverage, being either applied on an across-the-board basis to most categories of imports or exports or applicable to various products according to whether they are imported or exported in particular situations or circumstances. In other instances, the non-tariff barriers are applicable to specific products or groups of products but the full product description is not given. It is therefore not always possible to ascertain from the data in the inventory whether a measure in fact affects the
exports of developing countries. Since the inventory has been drawn up mainly on the basis of notifications by developed countries there is also the possibility of significant non-tariff barriers to the trade of developing countries of the types falling within the purview of the inventory not being covered. In general, it might be noted, however, that many non-tariff barriers tend to affect imports from all sources.
TABLE OF CONTENTS

I. GOVERNMENT PARTICIPATION IN TRADE

A. Government aids
B. Government procurement
C. State trading and government monopoly practices

II. CUSTOMS AND ADMINISTRATIVE ENTRY PROCEDURES

A. Countervailing duties
B. Anti-dumping duties
C. Valuation and associated problems of assessment of duty
D. Harmonisation of nomenclature and explanatory notes
F. Certificate of origin
G. Arbitrary classification
H. Sample requirements
I. Repayment of duties on returned goods and re-exports
J. Documentation, etc. (including penalties for errors)

III. STANDARDS INVOLVING IMPORTS AND DOMESTIC GOODS

A. Industrial standards
B. Health and safety standards (includes sanitary regulations regarding vegetable products)
C. Weights and measures
D. Pharmaceutical standards
E. Product content requirements (see F for additional measures)
F. Labelling and container regulations (see also H and I for packing and shipping requirements)
H. Marking requirements
I. Packaging requirements
### IV. SPECIFIC LIMITATIONS ON IMPORTS AND EXPORTS

- B. Embargoes 27
- G. Export restraints 27
- H. Minimum and maximum prices and price controls 27
- I. Tariff quotas 28

### V. RESTRICTIONS ON IMPORTS AND EXPORTS BY THE PRICE MECHANISM

- A. Prior import deposits 29
- B. Surcharges, port taxes, statistical taxes, etc. 29
- C. Discriminatory excise taxes, government-controlled insurance rates, film taxes, use taxes, etc. 30
- D. Discriminatory credit restrictions 35
- E. Consular fees 35
- G. Variable levies 35
- H. Border tax adjustments 37
- X. Emergency action 37

### VI. OTHER RESTRICTIONS ON IMPORTS

- A. Advertising and transportation restraints 39
- B. Screen-time requirements 39
- C. Local content and mixing requirements 39
- D. Restrictive business practices 39
- X. Other regulations or practices restraining imports. (This sub-section has been added to accommodate a few notifications which did not readily fit in elsewhere.) 40

**ANNEX:** Summary table showing the barriers by country and by product. 42/43
I. GOVERNMENT PARTICIPATION IN TRADE

A. Government Aids

AUSTRALIA

1. Export incentives in the forms of payroll tax rebate and tax allowance for market development.

2. A bounty on the use of pyrites in the production of sulphuric acid.

FRANCE

1. Subsidy on domestic wood pulp production through the transfer of 80 per cent of proceeds of a special tax on domestic and imported paper and paperboard other than newsprint.

ITALY

1. Export subsidies on tomato preserves.

2. Rebate of various duties and taxes paid during the course of production on a wide range of iron and steel goods.

3. Refund of the IGE turnover tax upon exportation.

JAPAN

1. Export incentives in the form of tax allowance for specified percentages of earnings from exports as expenses for developing foreign markets, etc.

SOUTH AFRICA

Export incentives in the form of tax reliefs in respect of expenditure on development of export markets.

UNITED KINGDOM

1. Loyalty rebate of the British Steel Corporation to British users who can show that they have not used imported steels of the same type in the preceding six months.

2. Investment grants to encourage the establishment of production facilities for aluminium.
UNITED STATES

1. Differential tax rates for United States companies qualifying as Western hemisphere trade corporations.

2. Duty and tax-free sale of only United States goods in American Post Exchange (P.X.) stores.

B. Government Procurement

Stipulated or de facto preferences in the government procurements for domestic supplies are referred to in pages 12-25 of COM.IND/6/Add.1. The countries referred to include AUSTRIA, BENELUX, CANADA, DENMARK, FRANCE, ITALY, JAPAN, NORWAY, SOUTH AFRICA, UNITED KINGDOM, UNITED STATES.

C. State-trading, Government Monopolies, etc.

AUSTRIA

1. Imports of salt and products containing salt are formally liberalized, but must be approved by the Administration of the Austrian Salt Monopoly (Finance Ministry).

2. The monopoly to import, produce and sell raw and processed tobacco and tobacco products of any kind.

3. A general reluctance of State-trading organizations to import tobacco and mineral ores from non-traditional sources even though the goods are available from these countries at competitive prices.

4. Industrially-produced raw spirits must be sold to the monopoly which has them refined at commercial refineries. The refined product is then sold to authorized users at Government controlled prices.

CANADA

1. A higher mark-up charged by the Canadian Provincial Liquor Boards in British Columbia, Ontario and Quebec on imported spirits than on Canadian goods.

2. Liquor sales in all provinces are controlled by the Liquor Control Boards which are reluctant to admit new products.
FINLAND

1. State trading of alcoholic beverages and crude petroleum.

2. De facto State trading of compound fertilizers. State-owned companies in practice appear to control imports and marketing and imports require a Ministry of Agriculture permit regarding quality.

FRANCE

1. State-trading or monopoly organizations like producers' association for manganese ore and tobacco: a general reluctance to import from non-traditional sources even though the goods are available from these sources at competitive prices.

2. State monopoly of cigarettes and other manufactured tobacco.

3. State trading of paper for periodicals (paper in general is liberalized).

4. State monopoly of petroleum and its products: licensing of importers and distributors is used to give French firms a larger share of the market than they would have if competition were free.

ITALY

1. State-trading or monopoly organizations like producers' associations for mineral ores and tobacco, manufactured or unmanufactured: a general reluctance to import from non-traditional sources even though the goods are available from these sources at competitive prices; conditions imposed by the Italian Tobacco Monopoly on the sale of foreign brands constitute an impediment to imports.

2. Nicotine products, salt, matches, flint, cigarette lighters and cigarette paper are under State monopolies.

JAPAN

1. State trading of manufactured tobacco, ethyl alcohol, salt and milk products.

2. Control of the oil industry and market under a five-year energy plan. Obligatory purchase by refineries from the Arabian Oil Company.
NORWAY

State trading of alcohol, alcoholic beverages, medicines and pharmaceuticals, and fishing gear.

SWEDEN

State trading of spirits and wines.

SWITZERLAND

State trading of ethyl alcohol of a strength of 80 per cent or more, whisky and gin in casks, brandy and liqueurs.
II. CUSTOMS AND ADMINISTRATIVE ENTRY PROCEDURES

A. Countervailing Duties

The Protocol of Provisional Application of the General Agreement deprived the relevant GATT provisions (Article VI) of much of their binding force. When introducing a countervailing duty, Canada and the United States do not take into account the element of injury, although Article VI of GATT makes this an essential condition for any defensive measure.

B. Anti-dumping Duties

AUSTRALIA

Upon complaint by Australian industry that goods are being dumped in Australia, the Minister for Customs may, if satisfied that a prima facie case exists, impose dumping cash securities at arbitrarily determined levels pending investigation by the Tariff Board. There is no time-limit for the Tariff Board to produce its findings on dumping; Australia has not adhered to the GATT anti-dumping code. Products affected are knitted shirts (dumping duties), cotton sheetings, bed sheets and pillow cases (dumping cash securities) from Hong Kong.

AUSTRIA

1. Anti-dumping procedures: the Government is authorized to establish "guiding" or "minimum" prices for products which cause market disruptions. Both prices are calculated on the basis of Austrian export prices and production costs. At present, minimum prices are in force for: cotton yarn, cotton fabrics, woollen fabrics, cardigans and pullovers made of wool.

2. The Government applies anti-dumping legislation to imports of woollen knitwear from Hong Kong in circumstances of alleged market disruption, and in several instances, importers have been required to pay anti-dumping duties.

CANADA

1. Dumping in Canadian legislation is selling to a Canadian importer at less than the value for duty. In such cases, a "special or dumping" duty equivalent to the difference between the two prices (but not exceeding 50 per cent ad valorem) is levied.
CANADA (cont'd)

The legislation permits application of anti-dumping duties whenever authorities believe actual values do not reflect "normal price".

2. Anti-dumping legislation applied only to imports of goods also manufactured in Canada, with the exception of alcoholic beverages, beer, malt, tobacco, cigars and cigarettes.

SOUTH AFRICA

1. South Africa has imposed anti-dumping duties on a wide range of imports including most types of clothing, cutlery, enamel-ware, from Hong Kong. Calculation of dumping duties is based on "current domestic values" (c.d.v.) arbitrarily determined by the South African authorities and based on West European prices. No attempt has been made to relate such values to actual Hong Kong values and in most cases trade in the items affected has either been severely restricted or eliminated entirely.

2. Anti-dumping legislation is not strictly in accordance with GATT rules. Whereas the GATT requires under Article VI that material injury must be caused or threatened, South African legislation empowers the Minister to impose this duty "whenever he is satisfied that detriment may result to an industry". South Africa has not adhered to the GATT anti-dumping code.

3. Anti-dumping duties of specific amounts are incorporated in South Africa's tariff schedule for specific products from certain countries and sometimes remain in effect for long periods of time.

C. Valuation and Associated Problems of Assessment of Duty

AUSTRALIA

1. Imports into Australia must be accompanied by customs invoices showing the f.o.b. price and the current domestic values of the goods imported in the exporting country. The dutiable value is determined on the basis of (i) the import value which Australian importer actually pays or (ii) the current domestic value in the exporting country, whichever is higher. The provisions on valuation are contrary either to the letter or to the spirit of Article VII of GATT.
2. Where the current domestic value is not available or where the Minister for Customs deems fit, the Minister may arbitrarily determine a value for duty. These systems of valuation introduce an element of uncertainty as to the amount of duty which the importer has to pay. Further, these systems of levying duty on the basis of current domestic values in the exporting country work more to the disadvantage of developing countries, as in many cases the prevailing domestic prices in those countries have no direct relationship with the prices at which they can sell these goods in the international markets. The structural imbalances and the supply scarcities which often exist in developing countries, coupled with inflationary conditions, result in the domestic price ruling at artificially high levels.

In addition, in some cases, goods which are products of newly established export-oriented industries in developing countries are not at all sold in the domestic markets. In such cases comparable current domestic values do not exist. It may often be the case that a current domestic value is determined at a level departing from that of the actual value. Further, a direct investigation into firms concerned is conducted by customs representatives to determine the current domestic value, and such investigation, depending on how it is actually carried out, may result in disclosing business secrets and imposing burdensome work on those firms. Various products especially coir mats and matting, light engineering goods, such as hand-tools, electric fans, etc., are affected by the valuation system.

CANADA


2. Pursuant to Sections 35-38 of the Customs Act the value for duty is - either (a) the fair market value, being the domestic selling price for consumption in the exporting country (there are also provisions to cover variations in time, quantity and quality between domestic and export sales), or, where like goods are not sold for home consumption but similar goods are - (b) the cost of production of the goods imported plus a percentage for profit based on the profit earned by the similar goods; or, where like or similar goods are not sold in the country of export - (c) as the Minister prescribes.
Market disruption: Section 40A(7)(c) of the Customs Act provides that when goods are imported into Canada in such conditions as injuriously to affect the interest of Canadian manufacturers, a Governor in Council may authorize the Minister to determine the value for duty of the goods concerned. The value determined in this way shall be deemed to be the fair market value.

The Customs Act authorizes the Canadian authorities to fix any "fair market value" for imported goods whenever they consider that the invoice price is less than the prevailing domestic selling price in the exporting country.

These systems of valuation introduce an element of uncertainty as to the amount of duty which the importer has to pay. Further, these systems of levying duty on the basis of current domestic values in the exporting country works more to the disadvantage of developing countries, as in many cases the prevailing domestic prices in these countries have no direct relationship with the prices at which they can sell these goods in the international markets. The structural imbalances and the supply scarcities which often exist in developing countries, coupled with inflationary conditions, result in the domestic price ruling at artificially high levels. In addition, in some cases, goods which are products of newly established export-oriented industries in developing countries are not at all sold in the domestic markets. In such cases comparable current domestic values do not exist. Growth of exports of textiles has generally been adversely affected. Those valuation provisions applied by Canada are contrary either to the letter or to the spirit of Article VII of GATT.

(Counter-comment by Canada)

There is no stipulation in the Canadian law that dutiable value must be no lower than the wholesale price in the exporting country. The relevant section of the Customs Act (Section 36(1)) provides, in part as follows: "The value for duty shall ... be the fair market value, at the time when and place from which the goods were shipped directly to Canada, of like goods when sold (A) to purchasers located at that place with whom the vendor deals at arm's length and who are at the same or substantially the same trade level as importer, and (B) in the same or substantially the same quantities for home consumption in ordinary course of trade under competitive conditions".
3. Investigation of the fair market value:

In order to determine the fair market value, customs representatives conduct direct investigations into enterprises concerned. These investigations, depending on how such investigations are actually carried out, may lead to the disclosure of business secrets, increase the burden on such enterprises, and thus have adverse effects on the growth of exports.

... certain provisions of Article 36 of the Customs Act on the quantities and level of trade to be taken into consideration for establishing the "fair market value" of imported goods. In determining the fair market value, due consideration is not always given to different commercial practices in the exporting country such as quantity discount and the fair market value is often determined without sufficient foundation.

FEDERAL REPUBLIC OF GERMANY

The importers generally prefer to obtain their requirements through the agents of Indian exporters in that country. It is understood that the fee charged by the agents is added to the value of the goods for the purpose of calculation of the import duty. This practice does not appear to be based on accepted international tariff valuation principles.

JAPAN

Desirability of accepting Brussels Convention on valuation.

NEW ZEALAND

Customs valuation is to be based on prices for home consumption in the exporting country (the current domestic value). In determining the current domestic value, due consideration is often not given to different commercial practices in the exporting country, and the value is often determined without sufficient evidence. Further a direct investigation is made by customs officials to determine the current domestic value, and such investigation, depending on how it is actually carried out, may result in disclosing business secrets and imposing a burdensome work on firms.
NEW ZEALAND (cont'd)

(Counter-comments by New Zealand)

The Customs Act requires the duty to be charged on the current domestic value in the country of export. Investigations are made from time to time in other countries to determine correct values and to advise exporters on the New Zealand system of valuation. The assessments are based on information obtained from exporters, and the information is held to be strictly confidential to the New Zealand Customs Department.

SOUTH AFRICA

1. South African Customs Law provides that the value for duty of imported goods shall be the f.o.b. price or the current domestic value, whichever is the higher, and that the Secretary for Customs may determine a value for duty where the current domestic value cannot be ascertained.

   It is understood that arbitrary value for duty is applied by South African customs to nearly all imports from Hong Kong. The arbitrary value for duty so determined is generally 20 per cent - 30 per cent more than the actual f.o.b. price but may be up to 100 per cent more.

   A direct investigation into firms concerned is conducted by customs representatives to determine the current domestic value. Such investigation, depending on how it is actually carried out, may result in disclosing of business secrets, and imposing burdensome work on those firms concerned.

2. A legal weight, which is the basis for a specific duty, is usually determined either by actually weighing the net content or by subtracting from the gross weight the average weight of packagings fixed by the competent Minister.

   The former is time-consuming and costly as the actual weighing is done in a very strict way, while in the case of the latter, the arbitrary decision on the average weight of packagings may be made by the competent Minister. (For example, despite the fact that the legal weights of ceramic products of Japanese origin are about 75 per cent of their gross weights, legal weights are fixed at 85 per cent of the gross weights.)
UNITED STATES

1. Desirability of adherence to Brussels Convention on Valuation.

In the event that as a result of these suggestions, the valuation system based on f.o.b. prices were replaced by a system of valuation based on c.i.f. prices, negotiations would obviously be necessary to the extent that there is any increase in the incidence of customs duties bound through GATT.

2. The elimination of the American Selling Price system of valuation undertaken by the United States Government in the Kennedy Round subject to Congressional approval. The American Government has undertaken, subject to Congressional approval, to remove ASP and replace the existing footwear tariff of 20 per cent ad valorem of ASP by US$0.25 per pair or 58 per cent ad valorem whichever is the higher with effect from 1 January 1971. Other products under the ASP system are canned clams, knitted woollen gloves and mittens and benzenoid chemicals. The ASP system has resulted in duty being levied at a substantially higher level than the official tariff rate. Also, as the American Selling Price is subject to fluctuations, it is difficult for exporters to calculate the duties to be collected. This element of uncertainty along with the fact that the tariff incidence actually increases with the rise of ASP has a restrictive effect on imports.

3. Section 402a: as a general rule, dutiable value for 1,015 items in the "final list" is to be based either on the export value or the foreign value (the prices for home consumption in the exporting country) of the product concerned, whichever is higher. Continued use of Section 402a can result in an imposition of arbitrarily high values for duty purposes which bear little relation to actual transaction values of trade levels concerned.

Further, investigations are made by the United States customs representatives with the exporter and/or the producer to determine the foreign value, and such investigations, depending on how they are actually carried out, may impose a heavy burden on the firms concerned and may lead to disclosure of business secrets.
4. Other special valuations: "export value", "foreign value", "United States value", "constructed value". The variety and complexity of these methods and the uncertainty they create form an obstacle to trade.

D. Harmonization of Nomenclature and Explanatory Notes

CANADA

1. Non-conformity of tariff classification to BTN

2. Need for explanatory notes and concordance to BTN

UNITED STATES

1. Non-conformity of tariff classification to BTN

2. Need for explanatory notes and concordance to BTN

3. The existence of an extraordinarily large number of tariff classifications for cotton textiles hinders the adjustment of quotas established under the LTA.

F. Certificates of Origin

AUSTRIA

Certificates of origin required for all major Brazilian exports.

FRANCE

1. Certificates of origin required for quartz and semi-precious stones.

2. Exports from Hong Kong must be covered by certificates of origin specially endorsed to show a 50 per cent Commonwealth cost content. This is a discriminatory requirement and occasions considerable inconvenience and expense to Hong Kong exporters.
ITALY

While the Italian authorities have abolished their requirement for certificates of origin, except in certain cases, their regulations allow their customs much more liberty to demand certificates than the regulations of the other European countries give to their customs. In particular, difficulties have been met as a result of the clause "and any other goods where, and after examination, the Italian customs are unable to ascertain the origin". Uncertainty and delays caused by the Italian system have acted as a barrier to trade in many categories of goods.

UNITED STATES

Commerce between the United States and Mainland China, North Korea or North Viet-Nam is prohibited, and in addition, import of any product deemed to be of an origin of the foregoing countries is prohibited whatever the country of origin, unless the product is accompanied by the certificates of origin issued by the government of the exporting country. Since products deemed to be of such an origin are not always clearly defined, and since it is not possible to foresee when and what item may be designated as such product, such requirements have led to unstable trade. In addition, when any product is designated as a product deemed to be of an origin of the foregoing countries, it is necessary to obtain the consent of the United States on the actual forms of such certificates of origin.

G. Arbitrary Classification

AUSTRALIA

Where some specified goods are declared by the competent Minister to be substitutes for or imitations of other specified goods, the rate of duty in respect of the latter is to be applicable in respect of the former. Under this system, the Minister is apparently free to declare the existence of a substitute relationship at any time. Such a system harms the stability of transactions and may adversely affect trade.
CANADA

"Made in Canada" régime. The Canadian customs tariff contains a number of tariff headings which distinguish for a specified type of product, between those "made in Canada" and those that are not. Goods in the first category are subject to higher duties than those in the latter category. Where the relevant tariff heading makes a distinction between the two categories mentioned above, the customs officers have to determine for each article to be imported whether or not it is to be considered as "made in Canada". In the absence of precise criteria there have been many disputes in past years between importers and the Canadian Administration over this determination. Canada might replace the "made in Canada" concept by the still more vague "available in Canada".

UNITED STATES

Uncertainties of TSUS classification: The complexity of the TSUS has led to difficult classification problems (e.g. application of headnote 101J and chief use provision in relation to treatment of goods).

H. Samples Requirements

GENERAL COMMENTS

With a view to facilitating classification of imported products by the customs authorities, some countries demand multiple numbers of samples of the goods to be imported which must be marked in an expensive way.

For example, when carrying out imports of textiles into a certain country, for each of the fabrics mentioned in the invoice, samples showing the name of the supplier and the number of the sample must be submitted in a multiple number in addition to the usual customs formalities. Procedures of this type charge exporting firms with additional costs and affect adversely trade in textiles.

The International Convention To Facilitate the Importation of Commercial Samples and Advertising Material, signed at Geneva on 7 November 1952, should be taken up for reconsideration in GATT with a view to obtaining accession to it by all contracting parties to GATT. At the same time the Convention should be reviewed with the aim of relaxing its provisions.
I. Repayment of Duties on Returned Goods and Re-exports

GENERAL COMMENTS

Existing administrative procedures for temporary importation do not enable jute goods, imported for re-export, to enjoy the unrestricted duty-free treatment to which such imports are eligible under normal international practice, for example: jute fabric imported for use as carpet backing and utilized for the manufacture of carpets which are exported.

ITALY

There is a Customs Co-operation Council recommendation that import duties and taxes should be refunded in cases where imported goods have been found to be defective (or damaged or otherwise not in accordance with contract) and are consequently returned to the supplier or destroyed under official control. This recommendation has been accepted by twenty-three countries but not by Italy.

J. Documentation, etc. (Including Penalties for Errors)

SOUTH AFRICA

New regulations have been introduced requiring preparation of four invoices each containing detailed information and a sample 6 inches x 3 inches for nearly all consignments of textile fabrics. Trade is affected by such a troublesome and costly requirement.

UNITED STATES

1. Customs invoice form 5515 and proposed revision applicable to most shipments over $500. In addition to the normal commercial information, the United States customs require extremely detailed information for classification, valuation, statistical and other purposes. Proposals to revise the form of invoice were announced towards the end of 1967. The revised form is likely to require even more detailed information to be given, as well as certification as to accuracy of content by both exporter and importer. The replies to the numerous and complex questions in the new text:
(a) could be used for purposes other than the specific ones of such a document, in particular for more numerous complaints of dumping;

(b) would endanger trade secrets, whether for the producer or for the exporter and importer;

(c) would entail very heavy fines if the exporter made any errors.

2. **Wool Products Labelling Act of 1939:** Until the inspection by the Federal Trade Commission is completed, the delivery of such products is suspended; the provisions of the Act also apply to United States produced articles. Regulations (Rule 36) proposed by the Federal Trade Commission would however discriminate against imported goods by subjecting them to a clearance procedure which would entail a considerable increase in documentation and could cause up to three days' delay, and by requiring the importer to pay for laboratory testing which the Commission could order if it believed, rightly or wrongly, that the goods were mislabelled.

3. **Administrative delays in customs services:** Exporters to the United States have experienced considerable delays in having their liabilities for customs duties discharged (three to four years), in having duty refunds processed, and in clearing shipments (e.g. inadequate staffing of fish inspectors at the JFK Airport at certain hours, resulting in storage charges and delays in fish reaching the markets).
III. STANDARDS INVOLVING IMPORTS AND DOMESTIC GOODS

A. Industrial Standards

CANADA

Standards in respect of electrical equipment by Canadian Standards Association: the procedure is normally slow; the CSA approval is only in Ontario.

FRANCE

1. Standards in respect of electrical consumer goods.

2. Technical visas are required for a range of goods not subject to quantitative restrictions; officially to ensure that they conform with French health requirements; labelling procedures, performance specifications etc.

FEDERAL REPUBLIC OF GERMANY

Standards in respect of plywood, building codes and electrical consumer goods.

ITALY

Standards in respect of electrical consumer goods.

NEW ZEALAND

Standards for testing steel; in some Commonwealth countries, standards preclude importation of Thomas processed steel.

UNITED KINGDOM

Standards in respect of plumbing and heating equipment, building codes, and domestic appliances.

UNITED STATES

1. Seal of approval by American Society of Mechanical Engineers for boilers and pressure vessels: certain States and municipalities adopt the A.S.M.E. standards for design and construction of boilers and pressure vessels. Inspection by American inspectors and stamping with the A.S.M.E. code seal is often obligatory. The A.S.M.E. refuses the use of its seal to manufacturers outside North America. Whenever an
overseas producer accepts an order, he has to ask a qualified inspector to come to stay in his country for a long period, to inspect the actual process of construction of his products. Enormous expenses and time required are significant trade barriers.

2. The standards of the American Society for Testing Materials which permit the use solely of steel manufactured according to the Martin Bessemer acid or L.D. processes, and excluding the Thomas process which is generally used in Europe.

3. The procedures for approval by the Underwriters' Laboratory of electrical equipment.

4. Standards for plumbing and heating equipment, lumber, firefighting equipment and industrial fans maintained by the National Sanitation Foundation and other industrial or professional associations.

B. Health and Safety Standards (Includes Sanitary Regulations Regarding Vegetable Products)

AUSTRALIA

Sanitary regulations and standards for lumber and special certification for wooden containers etc., standards for such goods as electrical equipment, gas appliances, lumber, firefighting equipment and containers, hinder exports in that approvals for imported goods by national agencies are time-consuming and expensive.

CANADA

Sanitary regulations in respect of hides and skins, and sausage casings. It is found that sometimes the regulations inhibit importation of certain products of developing countries.

FRANCE

Sanitary control or certificate required for meat preparations and wood planks.
ITALY

1. Phytosanitary certificates in respect of pineapples from certain countries seems to be discriminatory and causes delays and risks to trade.

2. Quality control: mandatory veterinary inspections for which fees, increased in January 1968, can amount to as much as 7.5 per cent of the value of the merchandise.

JAPAN

Imports of hides and skins are required to be accompanied by a certificate that the animals to which the hides and skins belong had not suffered from any infectious disease. The certificates to the effect that the hides and skins themselves are free from any such disease do not meet the requirements of the Japanese sanitary regulations.

NEW ZEALAND

Sanitary regulations on lumber imports.

SOUTH AFRICA

Sanitary measures for lumber.

SWITZERLAND

Sanitary regulations for canned fish and shrimps.

C. Weights and Measures

AUSTRALIA

Prohibition of imports of goods packed in a bag or sack, being goods the weight of which, together with the weight of the bag or sack, exceeds 200 lb. unless otherwise approved by the Minister, and for quality control purposes, chaff bags or bran bags of a net weight of less than 20 ozs. each, unless otherwise approved by the Minister.

CANADA

Imports of canned products are permitted only if in cans of sizes established by the Canadian Government.
D. Pharmaceutical Standards

FRANCE

1. Pharmaceutical regulations. (With a few exceptions, a "visa" - required before distribution of pharmaceutical specialties packaged for retail sale - is not granted for imported products.) Regulations are primarily designed to protect public health, but also serve to protect the domestic industry.

2. Government authorization is required for sale of pharmaceutical products. Long delays frequently occur before authorization is granted. The procedure is particularly costly for imported products, since it involves not only the production of detailed analysis and test reports from approved experts, but inspection of the factory and laboratories by an Inspector of Pharmacy. In addition to this, the main barrier to foreign products is associated with the requirement that a major part of the manufacturing operation must be undertaken in France. This prevents the importation of packed products and makes it virtually impossible to introduce a foreign pharmaceutical preparation unless the anticipated turnover justifies local production.

ITALY

The administration of drug regulation has been a source of delays in shipments.

E. Product Content Requirements (See F for Additional Measures)

FINLAND

Imports of compound fertilizer require a Ministry of Agriculture permit regarding quality.

ITALY

An Italian Ministerial Decree of 24 September 1955 (amending Law 1559 of 7 December 1951) establishes that volatile impurities in rum per 100 ccs. of anhydrous alcohol must be minimum 150 and maximum 1,250 milligrammes. If the volatile impurities are lower than 150 the spirit is classified as a liqueur under 22.09 C III (B). This means in effect that
ITALY (cont'd)

Light continuous rums fall under this heading and attract a duty varying from 1,448 to 1,678 units of account per degree proof per hectolitre (one unit of account equals US$1). Other rums are classified under tariff heading 22.09 C Ia and bear duty at a rate of between 0.948 and 1.04 units of account per degree proof per hectolitre. This difference in classification of what is essentially the same liquor effectively excludes light continuous rums from the Italian market.

F. Labelling and Container Regulations (See also H and I for Packing and Shipping Requirements)

JAPAN

Labelling requirements: weights must be indicated in metric measurements only.

UNITED KINGDOM

Marking and labelling regulations: the hallmarking procedure.

UNITED STATES

Any product containing woollen fibres imported (with the exception of carpets, rugs, mats, upholsteries and articles more than twenty years old) are required by the Wool Products Labelling Act of 1939 to be marked with information about their content of wool and other fibres. The import control system for woollen products in the American market, established under the new amendments to the "Rules and Regulations under the Wool Products Labelling Act of 1939", as adopted and published by the Federal Trade Commission on 22 December 1967 constitutes a barrier. Although the system has been suspended following a court injunction, the rules have not been definitively revoked. Under the new provisions, American producers are still merely required to maintain registers on the composition of their goods. Before the United States authorities can take any action against domestic producers they must first prove, at their own expense, that the producers have engaged in mislabelling. Importers, on the other hand, now have not only to maintain the registers required, if not expressly at least implicitly, because of the many indications required in import documents, under the rules applicable to themselves or to their foreign suppliers, but also to show proof of correct labelling and to pay for laboratory analyses and storage of the products until the new formalities have been complied with.
H. Marking Requirements (Includes Origin Marking Requirements)

UNITED KINGDOM

Marks of origin required for 300 items of imported industrial products becomes a trade barrier when compliance is technically difficult or costly.

UNITED STATES

Marks of origin: it is the general rule of United States Customs Laws that imported articles must be conspicuously and permanently marked to show origin. Where the articles themselves are specially exempted the marking is required to be shown on the containers. Such marking or labelling is to be as nearly indelible and permanent as the nature of the article will permit. The requirements are often unnecessarily stringent and sometimes technically difficult or impractical. The heavy fines are incurred in the event of any infringement. It is requested that these provisions be brought into conformity with both the letter and the spirit of Article IX of the General Agreement.

I. Packaging Requirements

JAPAN

Bottles for fruit juices and fruit concentrates for dilution must have both crown corks and screw caps. Such a requirement makes trade uneconomic.
IV. SPECIFIC LIMITATIONS ON IMPORTS AND EXPORTS

B. Embargoes

ITALY

Embargo of wine and elemental sulphur.

UNITED STATES

1. "Unfair practices": when any product is being imported and sold by unfair methods of competition, and when such import causes substantial injury to an industry in the United States, or when it is recognized that it leads to restraint or monopolization of trade and commerce in the United States, the importation of the products is to be prohibited. Since application for such action can be made and the concept of "unfair" practices in trade is not clear, this "unfair competition clause" can have, depending on its application, a significantly negative effect on trade.

G. Export Restraints

EEC, UNITED STATES AND UNITED KINGDOM

India's exports of cotton textiles to these countries are subject to export restraints. These restrictions are covered by arrangements entered into under the Arrangement on Cotton Textiles.

H. Minimum and Maximum Prices and Price Controls

GENERAL

Price ceilings. Certain countries fix maximum prices at which special products of foreign origin must be sold to consumer. It is for instance prescribed that the price to consumer must not, in principle, exceed the producer's home market price to consumer. Such price ceilings and the administrative work involved in their observance have highly restrictive effects on the marketing possibilities of foreign producers and on the sale of goods covered by such arrangements.
AUSTRIA

Price control measures for textiles implying cumbersome administrative procedures. These measures hinder the normal development of exports of textiles.

BENELUX

Suspension of licensing on price surveillance in Benelux countries; the competent authorities survey the prices of certain kinds of textiles when imported from certain specified countries and may suspend the issuance of licences when they consider that the prices are low. This is a discriminatory practice and forms an unstable factor in trade. These measures imply cumbersome administrative procedures and hinder the normal development of exports of textiles.

SWITZERLAND

It is understood that minimum prices are fixed for the importation of cotton, woollen and other textiles. The minimum prices afford undue protection to domestic industries and deny normal trade opportunities to exporters to compete in the Swiss market on the basis of comparative cost advantage.

Licences are not issued unless there is a certificate to show that the import price is not less than a certain percentage of the normal price of a comparable article produced in Switzerland. The fact that the levels of normal prices are not known in advance makes the trade transaction unstable. In addition, importers, on application for import licence, have to submit a sample and price list. This is a burden on exporters, and this together with the fact that business secrets sometimes leak out is a barrier to trade (case of Japan).

I. Tariff Quotas

UNITED STATES

Tariff rate quota for whiskbrooms and other brooms.
V. RESTRAINTS ON IMPORTS AND EXPORTS BY THE PRICE MECHANISM

A. Prior Import Deposits

ICELAND

For all imports except petroleum, fishing gear, fertilizers and industrial raw materials, deposits must be placed with bank selling exchange equal to 15-25 per cent of amount of foreign exchange purchased; the deposits are held for at least three months.

JAPAN

When applying for a licence, the importer must deposit a percentage of the value of the goods he is to import. The rate of deposit varies currently between 1 per cent and 5 per cent.

B. Surcharges, Port Dues, Statistical Taxes, etc.

AUSTRALIA

Special (primage) duties ranging from 5 per cent to 10 per cent. (Australia considers that the primage duties are duties of customs and, as such, are purely tariff measures.)

AUSTRIA

0.03 per cent tax for foreign trade promotion on all major Brazilian exports: iron ore, babassu oilcake, cottonseed oilcake, groundnut oilcake, carnauba wax.

FRANCE

A levy is charged on most kinds of imported papers. Part of the proceeds are applied to the development of the domestic pulp and paper industry.

ICELAND

1. Special import tax on gasoline.

2. Special import tax of IKr 9 per kg. on tubes and tyres.
ITALY

1. (a) Administrative duty of \( \frac{1}{2} \) per cent, charged in addition to the ordinary customs tariff is added to the landed value of imported goods for purposes of calculating turnover tax and equalization turnover tax.

(b) Statistical duties. Abolition of the administrative charge and the statistical duties with respect to imports from EEC countries only would constitute discrimination against third countries.

2. Landing tax amounting to Lit 20 per ton on granite.

3. Sanitary tax on glands, animal organs and extracts thereof, and snake poison.

SWEDEN

Tax levied by the Kungliga Kontrollstyrelsen on cigars.

SWITZERLAND

Discriminatory charges (monopoly duties) on certain spirits.

UNITED STATES

The levy by the United States of a 50 per cent duty on equipment purchased on repairs made abroad for United States merchant vessels constitutes a duty that is not provided in the United States tariff, but is charged pursuant to special provisions appended to the tariff.

C. Discriminatory Excise Taxes, Government-Controlled Insurance Rates, Film Taxes, Use Taxes, etc.

AUSTRALIA

A system of sales taxes at rates varying from product to product. The tax is, however, calculated differently depending on whether the product concerned is domestic or imported.

For imported products it is calculated on the following basis:

(a) dutiable value of the goods

(b) plus the customs duties
AUSTRALIA (cont’d)

(c) plus a 20 per cent supplement in Australia.

This system constitutes a discrimination that is not in conformity with the text of the General Agreement.

AUSTRIA

6 1/4 per cent import excise tax on carnauba wax.

BENELUX

1. Tax on cork agglomerates made with natural resins and tax-free status for agglomerates with pitch are discriminatory.

BELGIUM-LUXEMBURG

2. Transmission tax or lump-sum tax on all imported products, generally 7 per cent but may vary on certain commodities from 1-15 per cent.

Transmission tax is normally charged on goods at each transfer of property, but the products listed below exported from Brazil are charged a transmission tax "forfaitaire", i.e. only once, upon entry in the country.

14 per cent - certain preserved vegetables, sawn-wood planks and plywood.

7 per cent - certain meat preparations, cocoa butter, oilcake and casein.

3. Excise tax - a type of consumption tax levied on certain products, mainly alcohol and sugar, and products containing them, whatever the origin. (Certain preserved vegetables, fruit juices exported from Brazil are affected by the tax.)

NETHERLANDS

4. Turnover tax on all items except "necessities of life" - food, fuel, medicine, clothing etc. Rates vary from 1-18 per cent, the majority being at 5 per cent.

5. Excise tax on manufactured tobacco products; ethyl, propyl and isopropyl alcohol; beer; petroleum products; and wine.
DENMARK

Value-added tax of 12.5 per cent on nearly all manufactured goods.

FINLAND

1. Turnover tax of 12.4 per cent on nearly all manufactured goods.
2. Excise tax levied on retail price or quantity (e.g. litres) on alcoholic beverages; tobacco products; mineral waters; liquid fuels.

FRANCE

1. Excise taxes on alcoholic beverages: in addition to the added-value tax (TVA), alcoholic beverages attract one or more of three additional taxes. The first of these, the alcohol consumption tax, was increased at the beginning of 1968 at a uniform rate for all types of beverage concerned. However, the grain alcohol tax, which applies to all drinks arising from the distillation of cereals, and the aperitifs surcharge have been extended to cover these products with the exception of whisky and rum. The overall effect is that the combined additional taxes on gin, whisky and vodka have been increased by 73 per cent, as against 37 per cent on rum, 40 per cent on vermouth and 56 per cent on brandy. These taxes thus discriminate between different beverages.

FEDERAL REPUBLIC OF GERMANY

1. Value-added tax of 5 per cent or 10 per cent.
2. Consumption tax of DM 13.92 per kg. on coffee extract.
3. Internal tax on imported spirits is payable immediately, while that on spirits produced domestically has a six-months deferment of payment. The effect is that German distillers do not pay tax until after it has been received from customers to whom they in turn are able to offer deferred terms, whereas importers have to lock up capital in duty which is paid before distribution.
ICELAND

Sales tax of 8.25 per cent on all products except footwear, aviation gasoline, packaging, fishing equipment, aircraft.

IRELAND

Wholesale tax of 5 per cent or turnover tax of 2.5 per cent on most products; one or the other is paid at time of importation, depending on category of importer's registration.

ITALY

1. Turnover tax of 4 per cent on practically all products.
2. Tax for the protection of domestic production ranging from 0 per cent to 7.2 per cent on many Brazilian exports (leather, wood, vegetable oils, preserved fruit, coffee extracts, heart of palm, essential oils, glues, industrial and domestic equipment, mica, cotton textiles, furniture).
3. Excise taxes on cigarettes (see also State trading).
4. Consumption tax of Lit 350 per kg. on banana flour and of Lit 2,070 per kg. on coffee extract.

JAPAN

Cigarette lighters valued at ¥ 1,700 (US$4.72) or over are subject to a commodity tax of 20 per cent; other lighters bear no tax. The method of valuation for tax favours domestic production.

NEW ZEALAND

Sales taxes at rates varying from product to product are applied. The tax is, however, calculated differently depending on whether products are imported by licensed wholesalers: taxable goods which are imported by licensed wholesalers are subject to the same application of the sales tax as domestic goods when handled by such wholesalers. When taxable goods are imported other than by a licensed wholesaler the tax base is assessed from the sum of the value for duty and any custom duty payable advanced by 25 per cent; in such cases the rate of tax is the same as that for domestic products (40 per cent on motor vehicles and 20 per cent on all other taxable goods). See the information supplied to the Working Party on Border Tax Adjustments - Spec(68)88.
NORWAY

1. Turnover tax of 13.64 per cent on nearly all products. 36
2. Traffic tax on all imported products. Domestic goods moving in internal trade are not taxed. 36

SWEDEN

1. Turnover tax of 11.1 per cent of all imports. 39
2. Sales tax on certain rugs, articles of gold and silver and precious stones. 39
3. Fur tax of 2 per cent to 10 per cent. 39
4. Commodity tax of 20 per cent to 65 per cent on toilet articles, cosmetics, and similar preparations. 39

SWITZERLAND

Turnover tax of 5.4 per cent on all products. 39

UNITED STATES

1. Spirits at a strength of more than 48°20 G.L. are taxed on a proof gallon basis, while spirits of below that strength are taxed on a wine gallon basis. In other words, imported spirits with an alcohol content below proof strength are subject to customs duties and excise taxes as if they were at 100° proof strength, i.e. 48°20 G.L. This tax system would appear to affect domestic and imported spirits alike, but in practice is applied only to spirits imported in bottles, because only the latter are at the consumption stage at the time of assessment. This is because for domestic products, dilution to the consumption level (by the addition of distilled water) takes place only after taxation. The system affords additional protection to domestic producers of competing brandies and spirits in general, equivalent to the amount paid in respect of excise tax and customs duty on the distilled water content in spirits imported in bottles.

The excise tax system was considered by a notifying country to result in undue discrimination to the advantage of domestic producers of spirits, contrary to the provisions of Article III of GATT. It was requested that the present system of charging tax and customs duties be replaced by a system under which all spirits, whatever their strength, would be taxed on the basis of the actual alcohol content.
UNITED STATES (cont'd)

A similar distinction between proof and below-proof spirits is drawn for import duty purposes.

2. Sparkling cider or perry is treated as a sparkling wine (such as champagne) with an excise tax of $3.40 or $2.40 per gallon. Still cider, classed as a still wine of comparable strength, pays an excise tax of only 17 cents a gallon. This disparate treatment, which is completely anomalous, effectively prevents the sale of sparkling ciders and perrys in the United States. (For customs duty purposes still and sparkling ciders are treated the same.)

D. Discriminatory Credit Restrictions

JAPAN

Restrictions on credit for importers. The approval of MITI is required for all imports which are not paid for by the "standard method of settlement". All arrangements for long- and medium-term deferred payments are excluded from the standard method and thus fall within the competence of MITI to control. This regulation constitutes a serious restriction on trade in goods which is normally transacted on the basis of long- or medium-credit terms. It can be used as a means of preventing the import of goods not subject to any formal restrictions.

E. Consular Fees

ITALY

Inordinately high fees are charged by the Italian Consulate General in Hong Kong for consular endorsement of certificates of Hong Kong origin. These charges range from US$3.30 for consignments valued below US$825 to US$16.50 for consignments valued over US$3,300.

G. Variable Levies

AUSTRIA

Levies on imports of sugar, starch and of products made of these and other agricultural raw materials (casein, caseinates and derivatives; albumin, albuminates and derivatives; dextrin and dextrin glue; soluble or roasted starch; gums made from starch; preparations for the textile, paper and leather industries, or for similar industries, containing starch derivatives).
In lieu of customs duties, skimming charges may be collected. Skimming charges are based on price differentials between threshold and gate prices. They consist of a fixed protective element, i.e. 20 per cent ad valorem, plus a variable amount depending on the content of protected material in the imported product.

Levies currently in force:

20 per cent ad valorem plus S 549 per 100 kgs. on core binders used in foundry work on basis of starch and dextrin.

20 per cent ad valorem plus S 525 per 100 kgs. on starch-ether soluble in water, starch esters.

BELGIUM-LUXEMBURG

A surtax charged to the importer on certain meat preparations, tapioca, fruit juices, etc. in order to raise their price for protection of the domestic producer.

EUROPEAN ECONOMIC COMMUNITY

1. The incidence of the import levy on the sugar, milk or cereal content of processed foodstuffs and the general uncertainty which the system has created. In particular:

   (a) because of the frequent changes in the variable elements manufacturers experience difficulty in calculating their intended market prices and their forward planning is hampered;

   (b) information about changes in the levy rates is often not available promptly;

   (c) there appear to be different interpretations of the regulations in the several member countries and because of this, manufacturers have run into unexpected problems, for example, there have been difficulties with the German authorities in agreeing how the raw materials content of goods should be determined. Also EEC exporters receive restitutions based on the size of the variable levies on imports.
EUROPEAN ECONOMIC COMMUNITY (cont'd)

2. The EEC has recently published proposals to extend variable levies to all processed foods with a fruit or vegetable base. These include such items as canned fruit and vegetables, jams and marmalades, fruit juices and pickles. These regulations are due to come into effect in July 1968.

3. Import levies on milk powder and canned meat.

H. Border Tax Adjustments

AUSTRIA

Border taxes ranging from 6.25-13 per cent on all imports.

FRANCE

Border tax on all imports. Normal rate applicable to most industrial products is 20 per cent. Differential rates on product allocation basis can cause problems.

ITALY

1. Compensatory import tax of up to 7.8 per cent. Basis of calculation cannot be verified; perhaps protective.

2. Border tax on meat extracts Lit 250 per kg.; on soy meal Lit 7 per kg.; and on cocoa paste Lit 315.50 per kg.

X. Emergency Action

AUSTRALIA

Under the Australian tariff system, temporary import restrictions or temporary duty can be imposed on imports as emergency measures. Recourse to these measures has adverse effects on the stability of transaction and also on the trade.
UNITED STATES

Escape clause tariff action: the Trade Expansion Act of 1962 gives powers to the United States President to increase the rate of import duty on any item in the United States tariff in order to effect additional protection to a domestic industry. Although such "escape clause" action is generally advanced as a temporary measure, the additional duty can be as much as 100 per cent on the most-favoured-nation rate and may be applied over a period of several years. There are alternative means of providing economic assistance to industry, where this is found to be necessary and it is felt that such other measures could be used more frequently and with better effect than the escape clause action which disrupts, and in certain cases may completely destroy, legitimate foreign trade.

Invocation of escape clause measures as well as frequent investigation under the escape clause affect the stability of trade.
VI. OTHER RESTRANTS ON IMPORTS

A. Advertising and Transportation Restraints

FRANCE

Prohibition on advertising whisky and other grain spirits whereas wines and fruit-distilled spirits such as rum and brandy may be advertised.

B. Screen Time Requirements - Motion Picture Films

Screen time quota of AUSTRALIA, ITALY, UNITED KINGDOM, etc. are referred to in pages 3 and 4 of the document.

C. Local Content and Mixing Requirements

BENELUX

Manufacturers of carpets in Belgium are required to purchase certain specified proportions of cotton yarn required by them from domestic producers, and imports are allowed only for the balance of their requirements.

FRANCE

Re-export of jute sacks from France to the franc-zone is permitted on the condition that for each three units exported, one should be the product of the French jute industry.

ITALY

Imports of vegetable oils are licensed on the basis of purchase of a proportion of vegetable oil of indigenous origin.

D. Restrictive Business Practices

FRANCE

It is understood that French newspaper publishers operate a single newsprint buying agency which has agreed to purchase 80 per cent of the production of French newsprint mills before seeking import quotations.
UNITED KINGDOM

Port regulations preclude the use of bags for ammonium nitrate fertilizers although ocean shipping companies and British Railways accept this form of packing.

UNITED STATES

The corporate policies of some multi-national corporations limit the freedom of particular affiliates to make purchases and sales decisions on the basis of commercial considerations alone. In some cases in the United States private firms including utilities follow an apparent "buy national" policy. There has been experience of refusals by labour unions to use or handle imported products.

X. Other Regulations or Practices Restraining Imports

AUSTRALIA

Australia and New Zealand have agreed to make special arrangements regarding access for New Zealand pulp and newsprint in the Australian market. (Australia, however, consider that the reference pulp and newsprint should be omitted because Australia has no non-tariff barriers in force in regard to these products.)

ITALY

Article 5(A)(3) of the Paris Convention for the Protection of Industrial Property provides: "Forfeiture of the patent shall not be prescribed except in cases where the grant of compulsory licences would not have been sufficient to prevent such abuses. No proceeding for the forfeiture or revocation of a patent may be instituted before the expiration of two years from the grant of a first compulsory licence." Italian Patent Law, Decree No. 1127, amended by Law 514 of 1959, conflicts with Article 5 of the Paris Convention of which Italy is a member. The Decree provides that a patent may be declared invalid if the invention has not been worked within three years from the date of the grant or, if started, working is discontinued for three years: it provides also that importation of goods manufactured abroad does not constitute working. There is no provision for compulsory licensing. This constitutes a barrier to trade in that importers are reluctant to run the risk of losing patent protection.
JAPAN

Control on activities of branches of foreign companies. Although there is in law no barrier to the establishment of a branch of a foreign firm in Japan, strict governmental control over the activities of branches of foreign firms inhibits the establishment of branches which may be needed for the distribution of foreign goods.

POLAND

Marketing practices: foreign businessmen and firms are restricted in gaining access to potential buyers.
<table>
<thead>
<tr>
<th>TRADE BARRIERS</th>
<th>I. Government participation in trade</th>
<th>II. Customs and administrative entry procedures</th>
<th>III. Standards</th>
<th>IV. Specific limitations on imports and exports</th>
<th>V. Restrictions by the price mechanism</th>
<th>VI. Other restrictions on imports</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beverages and tobacco</td>
<td>ATA JAP</td>
<td>JAP CAN NOR DEN SA FRA UK ITA US</td>
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<td>JAP CAN FRA US</td>
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