The following communication, dated 4 July 1980, has been received from the Permanent Delegation of Japan.

Pursuant to Article 19.5 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade, I enclose the relevant parts of Customs Tariff Law and related cabinet order amended in conformity with the said Agreement.
I. CUSTOMS TARIFF LAW  
(Provisional translation)

Countervailing duty

Article 8 (as amended by Law No. 7, March 1980)

1. In the case where there is a fact that the importations of products in respect of which subsidies are granted, directly or indirectly, on production or export, in a foreign country cause or threaten to cause material injury to an industry in Japan or materially retard the establishment of an industry in Japan (hereinafter in this Article referred to as "the fact of material injury to an industry in Japan, etc."), there may be levied, if it is deemed necessary in order to protect the industry concerned, upon such products, as prescribed by a Cabinet Order, a duty additional to customs duty chargeable at an applicable rate in the annexed Tariff Schedule, in an amount equal to or less than the amount of the subsidies (hereinafter in this Article referred to as "countervailing duty"), by specifying the products and exporter or exporting country (including a certain area which is a part of an exporting country, this being the same in Articles 8 and 9) of such products.

2. Other than the case described in the preceding paragraph, in cases where there are products in respect of which subsidies are granted, directly or indirectly, on production or export, in a foreign country (in the case of the products under sub-paragraph 3, those in respect of which subsidies are granted, directly or indirectly, on export contrary to the provisions of the Agreement), to which a measure provided for in paragraph 9 (hereinafter in this paragraph referred to as "provisional measure") was applied, and those which are specified in accordance with the provisions of the preceding paragraph, and have been imported within the period enumerated in any of the following sub-paragraphs in accordance with the classification of the products, there may be levied upon such products, as prescribed by a Cabinet Order, a countervailing duty additional to customs duty chargeable at an applicable rate in the annexed Tariff Schedule. In this case, an amount of the countervailing duty which may be levied upon such products imported within the period for which the provisional measure has been applied, shall not exceed the amount of security being ordered to deposit in accordance with the provisions of paragraph 9.

(1) Products in respect of which it is deemed that the importation thereof has caused material injury to an industry in Japan (including those products in respect of which it is deemed that the importation thereof would have caused material injury to an industry in Japan unless the

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1 In this Article, "subsidies" include a bounty.

2 In this Article, "an industry in Japan" is limited to an industry in Japan which produces the like products.
provisional measure was applied, this being the same in the following sub-paragraph), excluding the products falling within sub-paragraphs 2 and 3;

The period for which the provisional measure has been applied;

(2) Products in respect of which a provisional measure has been applied by reason of violation of undertakings offered in accordance with paragraph 7 and in respect of which it is deemed that the importation thereof has caused material injury to an industry in Japan;

The period commencing on the date which is ninety days prior to the date of application of the provisional measure or the date on which violation of undertakings occurred whichever later and ending on the date prior to the day on which the specification was made in accordance with the provisions of the preceding paragraph;

(3) Products in respect of which it is deemed that the massive imports thereof in a short period caused injury to an industry in Japan which is difficult to repair and in respect of which it is deemed necessary to levy a countervailing duty in order to prevent the recurrence of such injury;

The period commencing on the date which is ninety days prior to the date of application of the provisional measure and ending on the date prior to the day on which the specification was made in accordance with the provisions of the preceding paragraph.

3. Countervailing duties levied in accordance with the provisions of the preceding paragraph shall be paid by the importer of the products on which the countervailing duties were levied.

4. Any person who has an interest in an industry in Japan referred to in paragraph 1 may, as prescribed by a Cabinet Order, submit sufficient evidence on the fact of importation of subsidized products and the fact that the importation causes material injury to an industry in Japan, etc., and request the Government to levy countervailing duties on the products.

5. The Government shall, upon a request made under the provisions of the preceding paragraph or when there is sufficient evidence concerning the fact of the importation of the subsidized products and the fact of material injury to an industry in Japan, etc., caused by the importation, initiate, if necessary, an investigation as to whether there are those facts.

6. An investigation referred to in the preceding paragraph shall be concluded within one year after the date of initiation of the investigation. However, the period may be extended to such extent as deemed necessary by special reasons.
7. In cases where an investigation under paragraph 5 has been initiated, the authority of an exporting country or exporter of the products covered by the investigation may offer the Government undertakings as prescribed in the following sub-paragraphs. When an undertaking is to be offered in accordance with sub-paragraph 2, it is required to obtain the agreement of the authority of the exporting country.

(1) Authority of exporting country;
   Undertakings to eliminate or limit the subsidies with regard to the products concerned, or to take measures which are deemed appropriate to eliminate the effect of the subsidies on an industry in Japan;

(2) Exporter;
   Undertakings to revise prices of the products so that it is deemed that the injurious effect of the subsidies with regard to the product concerned on an industry in Japan is eliminated.

8. Where undertakings set forth in the preceding paragraph are offered, the Government may accept them. In cases where the undertakings offered are accepted, the Government may terminate the investigation under paragraph 5 except where the authority of the exporting country of the products covered by such undertakings desires to complete the investigation concerning the fact of material injury to the industry in Japan, etc., set forth in paragraph 5.

9. In cases where an investigation under paragraph 5 has been initiated, the Government may, if it is deemed that there is the fact of importations of subsidized products, if it can be presumed on the basis of sufficient evidence (or the best information available in case of violation of undertakings offered under the provisions of paragraph 7) that there is the fact of material injury to an industry in Japan, etc., caused by such importations and if it is deemed necessary in order to protect the industry concerned in Japan, order to deposit a security the amount of which is deemed equal to that of the subsidies to ensure the countervailing duties levied in accordance with the provisions of paragraph 2, even before completion of the investigation, as prescribed by a Cabinet Order, by specifying the products, exporter or exporting country of the products and period (not exceeding four months).

10. The Government shall, if it accepts the undertakings offered under the provisions of paragraph 7, as prescribed by a Cabinet Order, withdraw the measures under the provisions of the preceding paragraph on the products subject to such measures.
11. When an investigation referred to in paragraph 5 has been completed, the Government shall promptly release a security deposited in accordance with the provisions of paragraph 9, except in the case where a countervailing duty is levied in compliance with the provisions of paragraph 2. The amount of security exceeding the amount of countervailing duty levied under the provisions of paragraph 2 shall likewise be released.

12. Other than the matters set forth in the preceding paragraphs, any necessary matters relating to the application of countervailing duty shall be prescribed by a Cabinet Order.
II. CABINET ORDER RELATING TO COUNTERVAILING DUTY

(Cabinet Order No. 136, May 1980)

(Provisional translation)

(Industry in Japan)

Article 1

1. The term "industry in Japan" set forth in paragraph 1 of Article 8 of the Customs Tariff Law (hereinafter referred to as "the Law") shall mean producers in Japan whose production of the like products constitutes more than a major proportion of the total production of those products.

2. Producers in Japan referred to in the preceding paragraph shall not include the producers who are related to the exporters or importers of the product in question and who are the importers of such product.

(Article 2

1. Any person, who is to make a request to the Government to levy countervailing duties in accordance with the provisions of paragraph 4 of Article 8 of the Law, shall submit a written information stating the following matters to the Minister of Finance together with sufficient evidence as to the fact of the importation of subsidized products and the fact that such importation causes material injury to an industry in Japan, etc., provided for in the provisions of the same paragraph:

(1) the description, name of manufacturer, type, model and features of the products;

(2) the name of the exporter or exporting country of the products;

(3) the summary as to the fact of the importation of the subsidized products and the fact that such importation causes material injury to an industry in Japan, etc., referred to in paragraph 4 of Article 8 of the Law;

(4) a request for confidential treatment of the evidence presented and the reason therefor when such a treatment is sought;

(5) the reasons for which he has an interest in an industry in Japan referred to in paragraph 1 of Article 8 of the Law and any other relevant matters.
2. The Minister of Finance may, if it is deemed to be appropriate to treat the evidence presented in accordance with the provisions of the preceding paragraph as confidential, request any person who presented such evidence to submit a written summary which is not required to be treated as confidential.

3. Any person, who is requested to submit a written summary under the preceding paragraph, shall, when he does not consider that he can make such a summary of the evidence, submit a written information stating the reasons therefor.

(article of the initiation of investigation)

Article 3

The Minister of Finance shall, if an investigation referred to in paragraph 5 of Article 8 of the Law (hereinafter referred to as "Investigation") is initiated, promptly notify in writing the exporters and importers of the products covered by the investigation and any other person who made a request in accordance with the provisions of paragraph 4 of the same Article (hereinafter referred to as "Directly Interested Parties") of the following information and shall make it known to the public in the Official Gazette:

(1) the description, name of manufacturer, type, model and features of the products;

(2) the name of exporter or the exporting country of the products;

(3) the date when the investigation is initiated;

(4) the subsidies covered by the investigation and the summary of any other matters to be investigated;

(5) any other relevant matters.

(article of the extension of the period of investigation)

Article 4

The Minister of Finance shall, if the period of investigation is to be extended in accordance with the proviso of paragraph 6 of Article 8 of the Law, promptly notify in writing the directly interested parties of the extended period of investigation and reasons of the extension and shall make it known to the public in the Official Gazette.
(Presentation of evidence)

Article 5

1. The directly interested parties and any other party having an interest
in the investigation (hereinafter referred to as "interested parties") may,
if they deem necessary or upon a request by the Minister of Finance, present
the Minister of Finance in writing or orally evidence on the fact of the
importation of the subsidized products and the fact that such importation
causes material injury to an industry in Japan, etc., referred to in
paragraph 4 of Article 8 of the Law. In this case, any person, who is to
present evidence in writing or orally, shall present a written information
as to the fact to be identified by such evidence, and a request for
confidential treatment of such evidence with the reason therefor when such
a treatment is sought.

2. The provisions of paragraphs 2 and 3 of Article 2 shall be applied
with regard to the evidence presented in writing or orally referred to
in the preceding paragraph.

(Evidence to be seen)

Article 6

1. The Minister of Finance shall, upon a request by interested parties,
provide opportunities for them to see any evidence presented in accordance
with the provisions of paragraph 1 of Article 2 and paragraph 1 of the
preceding Article, a document which records evidence presented orally
referred to in paragraph 1 of the preceding Article, and any other evidence
used in the investigation (excluding the evidence and document which is by
nature found adequate to be treated as confidential) and the written
information submitted in accordance with the provisions of paragraphs 2 and 3
of Article 2 (including cases where the provisions of these paragraphs are
applied as prescribed in the provisions of paragraph 2 of the preceding
Article), hereinafter in the following paragraph referred to as "evidence,
etc.".

2. Any person, who is to see evidence, etc., used in the investigation
in accordance with the provisions of the preceding paragraph, shall submit
to the Minister of Finance a written information stating the headings of
evidence, etc. and reasons for which he has an interest in the investigation.

(Presentation of view)

Article 7

Any interested party may present in writing, or orally when permitted
by the Minister of Finance, its view regarding the investigation.
Article 8

1. When any authority of an exporting country or exporter of the products covered by an investigation is to offer, in accordance with the provisions of paragraph 7 of Article 8 of the Law, to the Government undertakings referred to in the same paragraph, either of them shall submit to the Minister of Finance a document stating the contents of the undertaking offered. If the authority of the exporting country desires that the investigation should be completed with regard to the fact of material injury to an industry in Japan, etc. as prescribed in paragraph 1 of the same Article, it shall submit to the Minister of Finance a document to that effect.

2. When an undertaking offered by the authority of the exporting country or the exporter of the products covered by an investigation in accordance with the provisions of the preceding paragraph has been accepted in accordance with the provisions of the previous portion of paragraph 8 of Article 8 of the Law, the Minister of Finance shall promptly notify in writing directly interested parties of that effect and of reasons and date of termination of the investigation when it is so decided, or the fact of continuation of the investigation with respect to the fact of material injury to an industry in Japan, etc. referred to in paragraph 1 of the same Article, and shall make it known to the public in Official Gazette.

3. When an investigation regarding the fact of material injury to an industry in Japan, etc. referred to in paragraph 1 of Article 8 of the Law has been completed after acceptance, according to the provisions of the previous portion of paragraph 8 of the same Article, of an undertaking offered by the authority of the exporting country or the exporter of the products covered by the investigation in accordance with paragraph 1 above and if the Government has made a finding in respect of the products concerned that there exists the fact of material injury to an industry in Japan, etc., the undertaking accepted in accordance with the provisions of the previous portion of paragraph 8 of Article 8 of the Law shall not lapse. When a finding has been made that there does not exist the fact of material injury to an industry in Japan, etc., the undertaking shall lapse; provided that the undertaking shall not lapse in cases where such finding has been made in large part taking account of the existence of such undertaking.

4. The Minister of Finance shall, when a finding as referred to in the preceding paragraph has been made, promptly notify in writing the directly interested parties that an undertaking accepted in accordance with the provisions of the previous portion of paragraph 8 of Article 8 of the Law shall not lapse or shall lapse and of reasons therefor and shall make it known to the public in the Official Gazette.
5. When any exporter or importer of the products covered by an undertaking accepted in accordance with the provisions of the previous portion of paragraph 8 of Article 8 of the Law considers that the undertaking needs not to be continued, he may submit to the Minister of Finance any information demonstrating to that effect and request the Minister to review the need for continuation of the undertaking.

6. When it is deemed that undertakings accepted in accordance with the provisions of the previous portion of paragraph 8 of Article 8 of the Law (excluding undertakings which shall lapse under the provisions of the second sentence of paragraph 3 above) need not to be continued, the Government shall make a decision to that effect. In this case, the Minister of Finance shall promptly notify in writing the directly interested parties of that effect and reasons therefor and shall make it known to the public in the Official Gazette.

(Notification on levying of countervailing duty)

Article 9

1. The Minister of Finance shall, when the measure as prescribed in paragraph 1 or 9 of Article 8 of the Law is taken, promptly notify in writing the directly interested parties of the following information:

   (1) the description, name of manufacturer, type, model and features of the products,
   (2) the name of the exporter or exporting country of the products;
   (3) the fact identified by investigations and conclusions obtained therefrom;
   (4) if, in addition to the measure under the provisions of paragraph 1 of Article 8 of the Law, the measure under the provisions of paragraph 2 of the said Article is taken, the products covered by the measure and the reasons therefor;
   (5) any other relevant matters.

2. The Minister of Finance shall, when it is decided that the measure as prescribed in the paragraph 1 of Article 8 of the Law should not be taken as the result of investigations, promptly notify in writing the directly interested parties of the information described in the preceding paragraph (excluding sub-paragraph 4) and make it known to the public in the Official Gazette.
3. The interested parties may, when they view that the measures provided for in paragraph 1 of Article 8 of the Law need not to be continued, submit to the Minister of Finance any information demonstrating to that effect and request the Minister to review the need for continuation of the measures.

(Consultation relating to the investigation)

**Article 10**

1. The Minister of Finance, any Minister who has jurisdiction over the industry in Japan as prescribed in paragraph 1 of Article 8 of the Law (hereinafter referred to as "the Minister having jurisdiction over the industry") and the Minister of International Trade and Industry shall, if they deem necessary to initiate an investigation, communicate to each other to that effect. They shall always keep a close contact (including the transmission by the Minister of Finance of a copy of the written information submitted under the provisions of paragraph 1 of Articles 2 and 8 to the Minister having jurisdiction over the industry and the Minister of International Trade and Industry) with each other on the investigation (including ways to deal with the results of the investigation) and on the undertaking offered under the provisions of paragraph 7 of Article 8 of the Law. They shall also make a determination, after consultations among themselves regarding any important matters on these aspects.

(Referral to the Customs Tariff Council)

**Article 11**

1. The Minister of Finance shall, when it is deemed necessary to take the measures as prescribed in paragraph 1 or 9 of Article 8 of the Law, promptly refer the matter to the Customs Tariff Council, except in cases where it is found necessary to take the measure as prescribed in paragraph 9 of Article 8 of the Law urgently in order to protect the industry concerned in Japan.

2. The Minister of Finance shall, when the measure as prescribed in paragraph 9 of Article 8 of the Law is taken in accordance with the proviso of the preceding paragraph, promptly report to the Customs Tariff Council the details of the measure so taken.

**Supplementary Provisions**

This Cabinet Order shall enter into force on 25 May 1980.