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## Survey of Non-Tariff Barriers in Various Countries on Japanese

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# Survey of Non-Tariff Barriers in Various Countries on Japanese Export

by

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The conclusion of the Kennedy Round negotiations has made possible the removal of many tariff barriers. However, it should be noted that many so-called non-tariff obstacles to trade remain and that there is a tendency toward an increase in such barriers.

The Japanese Government, on the occasion it reaffirmed its intent to fully implement the eight-point economic program aimed at preventing the re-valuation of the Yen, decided to actively endeavour for the removal of non-tariff barriers. This problem has become the major task of all countries following the conclusion of the Kennedy Round. As a result of the recent major currency crisis and the deterioration of the balance of payments the work by GATT, OECD and UNCTAD for the drafting of a plan for the reduction and elimination of non-tariff barriers is progressing with great difficulty.

The various protective measures such as import quotas, surcharges and border tax bill plans recently presented to the U.S. Congress should be regarded as non-tariff barriers to trade. Today, tariffs can no longer be regarded as effective measures to control imports and it is for this reason that the advanced countries are coming to resort to various ingenious and devious means to set up non-tariff obstacles to trade.

The aim of this report is to point out the various non-tariff barriers existing in foreign countries and to explain the way in which they may affect imports from Japan. It is my hope that this report will be useful to students studying this subject.

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The data given in this report were taken from information supplied by various public and private organizations in Japan.

## I. Quantitative Import Restrictions

### a) Residual Import Restrictions

As of October 1, 1971, principal items and number of items of the residual import restrictions in the leading industrial countries are as follows.

Country	Industrial Goods	Agricultural Goods	Total	Principal Items
France	35	39	74	dairy products, fruits, cereals, processed agricultural products, coal, anti-knock preparations, paper, aircraft, ships, timepieces
West Germany	19	20	39	fish, fruits, canned fruits, juice, hemp fabrics, woollen fabrics, women's outer wear, insulator
Italy	8	12	20	dairy products, coffee, molasses, wine, anti-knock preparations, motorcars and parts thereof
Benelux	4	5	9	meat, fish, vegetables, fruits, sugar, coal, antibiotics
United Kingdom	6	19	25	coal, dairy products, processed jute products
Austria	5	35	40	meat, dairy products, starch, penicillin
Sweden	0	2	2	herring (fresh and salted)
Denmark	2	58	60	beef, dairy products, fruits, coffee beans, cereals
Norway	1	54	55	beef, dairy products, fruits, starch, ships
Canada	1	4	5	butter, cheese, skim milk, casein
Australia	6	0	6	aluminum ingot, used earth-movings and excavatings
Japan	12	28	40	fish dairy products, leather, boiler, EDPS and motercar parts

b) Movement toward Import Restrictions in the United States

Of the various problems connected with import restrictions, Japanese exporters are deeply concerned on the various bills for import restrictions submitted to the U. S. Congress. These bills are aimed against textiles, iron and steel, meat, dairy products, mineral products, electronic equipment, strawberry jam, mink fur and others. Should all these bills be passed, it is feared that about one half of the amount of imports into the U. S. could be affected. For Japan who depends heavily on trade with the U. S., both the Government and business circles are strongly opposed to such protectionist policies.

In order to dissolve the economic crisis confronting the nation, the U.S., from August 16, 1971, implemented a "temporary" import surcharge of 10% and decided to suspend "temporarily" the convertibility of the dollar into gold. The Japanese Government decided to allow the Yen to float in order to cope with the Nixon Administrative Economic Program. The import surcharge, monetary uncertainties and Japanese compromise in the form of the floating the Yen have hurt in different degrees nearly all Japanese industries.

c) Conditional Restrictions

This type of restrictions means a system under which imports are permitted on specific conditions only, such as the purchase of a given quantity of like domestic products. A good example is the mixing regulations. But in the broader sense of the word, we can say they include import regulation measures adopted by the developing countries in Africa & Near East to adjust the unbalanced trade with Japan. There are too many cases to enumerate.

d) Other Restrictive Measures

1) The Import Standard Price in Korea

A minimum or maximum price is determined as the "standard price" for certain items of imports, and for a product whose price is below the minimum price or above the maximum price, the licence is not issued or import is not permitted. In addition, the standard prices, especially of those goods whose price tends to fluctuate to a large extent, do not reflect the actual international market prices. The result is that this import price system often restrains

the import transactions.

## 2) Import Restrictions in Israel

For restricted items, if the authorities concerned consider that products are being imported at such a low price as to make it difficult for the Government to protect and foster the domestic industries, the issuance of licences can be suspended for these items on an uncertain ground that they are being imported at a "dumping price." The stability of transactions is thus affected.

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## II. Discriminatory Restrictive Measures

### a) Application of Article 35 of GATT

Even at the present, many countries apply Article 35 of GATT to Japan and this comprises one of the obstacles to the development of normal trade relations. The following 30 countries apply this article to Japan:

Austria, Brundi, Cameroon, Central Africa, Chad, Congo (Brazzaville), Cyprus, Dahomey, Gabon, Gambia, Haiti, Ireland, Ivory Coast, Jamaica, Kenya, Kuwait, Malta, Mauritania, Niger, Nigeria, Portugal, Ruwanda, Senegal, Sierra Leone, South Africa, Spain, Tanzania, Togoland, Uganda and Upper Volta.

### b) Discriminatory Treatment against Japan

The following discriminatory treatment is applied against Japan in various countries, which is seriously affecting Japanese exports.

#### i) Import Quotas and Import Restrictions in developed Countries

##### 1) Import Quotas & Single Import Licencing System in Benelux

Imports of 28 items of industrial products of export interest to Japan such as textiles, ceramics, and other miscellaneous goods are discriminatorily restricted against Japan. The exports of these products from Japan are affected by such discriminations. Furthermore, import licences are necessary for all imports from Japan, which may be restricted at any time.

##### 2) Import Quotas in France

Imports of 47 items of industrial products such as textiles, electronic apparatus, precision instruments and other miscellaneous goods are discriminatorily restricted against Japan. Since many of these items are of great export interest to Japan, Japanese exports are considerably impaired. Furthermore, restrictions against Japan are tightened by parcelling-out of import quotas

of these items.

### 3) Import Quotas in Federal Republic of Germany

21 items, including products of export interest to Japan such as textiles, insulators and ceramics, are subject to discriminatory import restrictions against Japan.

### 4) Import Quotas in Italy

Imports of 101 items of industrial products, mainly of textiles, machinery, automobiles and other miscellaneous goods are discriminatorily restricted against Japan (Imports of certain products such as ball bearings, domestic sewing machines, etc., are prohibited). Most of these products are of export interest to Japan. Furthermore, because of parcelling-out of import quotas, import restrictions on certain products are tightened.

### 5) Import Quotas, Import Surveillance System & Single Import Licencing System in Denmark

Denmark establishes quotas for many industrial products imported from Japan. The liberalization list for Japan is not published. Japanese exports to Denmark are discriminatorily restricted by such quotas. Moreover, Japanese exports remain unstable, because import items and quotas are decided unilaterally by Denmark. In addition, many other industrial products imported from Japan are placed under import surveillance system, in which the standard of issuing import licences is not clear. The stability of transactions is thus affected. Furthermore, all imports from Japan need import licences, which may be suspended at any time.

### 6) Import Quotas & Import Surveillance System in Norway

Norway establishes quotas for imports from Japan on 28 items of cotton textile products and on 33 items of other industrial products. The growth of Japan's exports to Norway is discriminatorily restrained by this quota system. Moreover, imports of 25 items of industrial products from Japan are governed by the surveillance system under which the issuance of licences may be suspended at any time. This, therefore, often creates uncertainty in transactions between Japan and Norway.

### 7) Import Quotas & Single Import Licencing System in Sweden

Sweden establishes quotas for imports of about 50 items from Japan. The export of many items of interest to Japan heavily suffers from such a quota system. Furthermore, all imports from Japan are subject to an import licencing system. This system constitutes an obstacle to Japan's export

to Sweden because Sweden can at any time restrict imports from Japan.

#### 8) Single Import Licencing System & Import Restrictions in Austria

All imports from Japan are under the licencing system. The import licences on 171 items of export interest to Japan, such as textile products, ceramic tiles, radios, binoculars, are discriminatorily issued at the discretion of Austrian authorities, and this has an adverse effect on the growth of exports.

#### 9) Import Restrictions in Portugal

Portugal maintains discriminatory restrictions on imports from Japan through the import surveillance system or quantitative restrictions with regard to industrial products for about 290 items in the case of imports into Portuguese mainland and for about 320 items in the case of its overseas territories. Japan's exports to Portugal are adversely affected by such discriminatory restrictions.

#### 10) Import Restrictions in Spain

Spain maintains import restrictions on 205 items of industrial products. A large number of such restricted items are of export interest to Japan. Although global quotas are established for 142 of the above restricted items, Japan is excluded from such global quotas on 70 items. In addition to such import restrictions, Spain maintains discriminatory import restrictions against Japan in respect of about 330 items of industrial products. Almost all of Japan's exports to Spain are under discriminatory import restrictions and Japan's exports to Spain are affected to a very large extent.

#### 11) Import Restrictions in Greece

Greece restricts imports from Japan in a discriminatory manner with respect to 13 items such as textile fabrics and dry batteries.

#### 12) Import Restrictions in Ireland

Ireland maintains discriminatory import restrictions against Japan on 47 items of textile products. This prevents the expansion of Japanese exports.

#### ii) Other Discriminatory Treatments

##### 1) Discriminatory Price Certification System in Switzerland

On the import of 13 items of textile products from Japan, 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 leakage of business secrets is a barrier to trade.

2) Price Surveillance System in Benelux

The competent authorities survey the prices of certain kinds of textiles when imported from certain specified countries including Japan and may suspend the issuance of licences when they consider the prices are low. This is a discriminatory practice and forms an unstable factor in trade.

c) Export Restraint

In order to avoid unilateral import restrictions by the importing country, Japan has been forced to take measures to control exports and these measures are referred to as voluntary export restraint. But actually, these restraints have almost the same effect on Japanese exporters as import restrictions. Furthermore, they are discriminatory obstacles aimed against Japan.

The items classified according to commodity groups are as follows (as of April 1, 1968):

textiles, 54; heavy industrial products, 26; non-ferrous metal, 1; agricultural and marine products, 19; general merchandise, 25; chemicals, 8.

As can be seen from the above, export restraints are applied mostly for textiles, machinery, general merchandies and farm and marine products.

The countries to which exports are controlled include the U.S., Canada, EEC, Britain, Denmark, Austria, Switzerland and Australia.

Items restrained classified according to area shows the following:

*U. S. and Canada* : plywood, frozen foods, canned foods, camera, television sets, sewing machines, stainless steel tableware, ceramic tiles, cotton fabrics, table-cloth, secondary staple fiber products, scarves, muffier and others.

Items for only the *U. S.* market include bicycles and its saddle, umbrella and its frame, baseball glove and mitt, woolens, etc. Items for only Canada include tangerine oranges, canvas shoes, rain shoes and secondary textile products. Items for EEC and EFTA include canned goods, wood screw, stainless steel tableware, umbrella and its frame, mosaic tiles, cotton fabrics and staple fiber product. Items for the British market include canned tangerine oranges, woolen and linen products, cameras, stainless steel tableware, knives, fishing reel, etc.

Controlled items for export to France include sewing machine, specific

secondary textile products. The export to household sewing machines to Germany is controlled. To Denmark, restraint is applied on exports of synthetic textile products, fishing nets and cotton goods. Items to Austria include cotton goods; to Switzerland, dry battery. Items restrained to Australia include vinylchloride leather, synthetic textile products and cotton fabrics.

d) Safeguard Clause

The safeguard clause inserted in the trade agreement is difficult for Japan to bear. The aim of this clause is to prevent the heavy flow of imports from Japan. The Japanese Government and exporters strongly demand the removal of such a clause in view of the fact that all circles concerned are working hard for the establishment of orderly marketing. The countries which still adhere to this clause are Britain, France and the Benelux countries.

e) Noordwijk Agreement

In May 1958 an agreement was concluded among private business bodies in the European countries (Germany, Austria, Belgium, the Netherlands, Italy, France, Switzerland and Norway) for the purpose of restricting the re-export of finished fabrics, made from grey cotton and rayon staple fabrics imported from Japan and Mainland China, to member countries of the agreement and their overseas territories in Africa. Although the agreement is non-intergovernmental, it is clear that governments concerned support the operation of the agreement by restricting the re-export. Japanese exports of grey cotton and rayon staple fabrics have significantly decreased because of this agreement.

f) Agreement on Trade in Cotton Textiles between the United Kingdom and the Republic of Ireland

Pursuant to this agreement, Ireland restricts the exports to and imports from the United Kingdom in respect of textile products made from cotton yarn or fabrics of Japanese origin. The Irish import restrictions in particular have affected Japanese exports to a large extent.

### **III. Para-Tariff Barriers**

#### a) Customs Valuation

In the instance of ad valorem tariff, the amount of tariff is greatly affected by the method of customs valuation. In cases where method of valuation is uncertain or complex or where valuation may be optionally changed, there arise trade obstacles. Marked cases of this are seen in the U.S. customs valuation.

##### 1) Customs Valuation in the United States

The general standard of customs valuation is set forth in Section 402 of the Tariff Act and Section 402a, 336 and the head notes of the TSUS provides that special valuation methods may be employed. Section 402 provides that customs valuation be based as a rule on the export value whereas Section 402a provides that customs valuation be based on either the export value or the foreign value (the prices for home consumption in the exporting country) of the product concerned, whichever is higher. Section 336 provides that customs valuation be based on the American selling price.

##### (i) Section 402a

This section existed from 1930 when the U.S. Tariff Act was inaugurated. When the Secretary of Finance announced the Final List in 1958 in accordance with Section 6 (a) of the Customs Simplification Act of 1956, the items specified in the Final List was excluded from application of the simplification measure with the result that the former method of customs valuation remained in force. The items on the Final List include chemicals, machinery, electrical appliances, glass products, paper, textiles, mineral products and agricultural products and others numbering about 400. Items of interest to Japn are receiving tubes, bearings, television sets, radio-phonographs, insulators, lathes, machine tools and motorcars. In particular, valuation price of receiving tubes was usually three times the invoice price and this has resulted in repeated disputes between the businessmen of the two countries.

##### (ii) American Selling Price (ASP)

By this method, the customs valuation is based on the wholesale prices for home consumption of comparable American produced articles. The items to which this ASP system is applied are classified into two groups. One is benzenoid chemicals which are indicated in the TSUS; the other is composed

of items decided by the US President's proclamation and include canned clams, knitted wool gloves and mittens and rubber footwears. The aim of this provision is protection of domestic industries and a remnant of the former days. It is contrary to the aim of GATT Art. 7, Par. 2 but is in force at the present for the reason that the rule existed from the time before the US became a member of GATT. During the Kennedy Round negotiations the US promised the EEC, Britain, Switzerland and Japan to work for the non-application of the ASP system on benzenoid chemicals and canned clams and knitted wool gloves and mittens. However, its elimination has not yet materialized due to the strong opposition of the US Congress.

## 2) Customs Valuation in Canada

Customs valuation, as a rule, is based on the fair market value. In determining the fair market value, however, due consideration is often not given to different commercial practices in the exporting country such as quantity discount, and the fair market value is often determined without sufficient foundation, thus constituting a significant trade barrier.

In addition, Canadian Customs Act provides that when goods of any kinds are being imported into Canada under such conditions as unfavorably affect the interests of Canadian producers, the value for duty of any class or kind of such goods may be arbitrarily determined. The restrictive effect of such customs valuation would be very significant. Furthermore, since it is not known in advance when such clause will be invoked, it leads to instability of transactions and is a factor which interferes with the growth of trade. 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, and increase the burden on such enterprises, and thus have adverse effects on the growth of exports.

## 3) Customs Valuation in Australia

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. Such a system of valuation can create uncertainty, and 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 investiga-

tion, depending on how it is actually carried out, may result in disclosing business secrets and imposing a burdensome work on those firms.

#### 4) Customs Valuation in New Zealand

Customs valuation is to be based on the current domestic value (prices for home consumption in the exporting country). 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 into firms concerned 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.

#### 5) Customs Valuation in Brazil

For specified products, "minimum values" are established as the basis for customs valuation. If such a product is imported at a price lower than the "minimum value", the customs duty is levied on the basis of the "minimum value." Although customs duties of any other goods are levied in principle on "normal values" at the port of importation (c.i.f. value), prices higher than the c.i.f. values are often used as the "normal values." In consequence this valuation system may act as trade barriers depending on the levels at which the prices are fixed. Moreover, the application of the "normal value" may lead to the instability of transactions because items in question, price levels and duration are not made public.

#### 6) Official Index Value System in Argentina

Where the actual import price is lower than the "normal price" established by the Price Investigation Office of the Secretary of Industrial Commerce, this "normal price" is used as the basis for duty assessment. A special advisory committee to the Director of the Customs is authorized to determine the import price on which duty is to be assessed in such cases as where the actual import price is lower than the domestic price in the exporting country. Such an arbitrary valuation system has resulted in unstable export transactions, and, in fact, has created difficulties with respect to Japan's export of polyvinylchloride boards.

### b) Measures other than Customs Valuation

#### 1) Support Value in Austria

For 23 items of industrial chemicals and synthetic resins, support values

per ton are set up at high levels, and if the duty-paid landed cost is lower than the support value, 90% of their difference is collected in a form of the specific duty. This is in effect an increase in customs duties, and it is possible that export of items subjects to such a system will become difficult.

#### 2) Substitute Notice in Australia

Where some specified goods are declared by the competent Minister to be substitutes for or imitations of another specified goods, the rate of duty in respect of the latter is to be applicable in respect of the former.

Under such a 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.

#### c) Customs Formalities

Traders desire earnestly the simplification of customs formalities but complicated red tape still exists in a number of countries and this is a matter of deep regret. One marked example is the requirement for consular invoice.

##### 1) Consular Invoice Systems in Various Countries

Many Latin American countries and some Asian countries notably the Philippines and Korea require consular invoice for Customs purpose. Exporters in all countries are required to prepare many kinds of documents which result in considerable expenses. It is hoped that this system will be eliminated in compliance with GATT resolution.

##### 2) Customs Formalities in the United States

The fillings up of invoice should in general be a routine work. However, the items to be filled in the Customs Invoice of the United States are complicated. Particularly, the declaration of "home current price" is a burden on exporters.

### **IV. Abusive Use of Anti-Dumping and Countervailing Duties and Others**

#### a) Anti-Dumping Duties

Since dumping in international trade distorts fair competition, it is only proper that measures should be taken to prevent it. However, in case there is abusive use of this measure exceeding the limits of protection of just interests, it becomes a non-tariff barrier. Japanese traders suffered heavily from the U.S. anti-dumping measures. Within the period of October

1958 to December 1967, there were a total 39 cases of inquiry into alleged dumping by Japanese exporters. Of this number, only one case was judged as having injurious effect on American industry. However, once inquiry is started on suspicion of dumping, exporters suffer heavily from withholding of appraisement. These instances are not limited to only the United States; similar cases have been seen in the cases of Canada and the United Kingdom.

As a result of the Kennedy Round negotiations, however, an International Antidumping Code was approved and came into force from 1 July 1968. (This agreement has been already accepted by 16 countries including the U.S., Britain, Canada, EEC and Japan.) Some countries have amended their domestic laws in accordance with this Code and there is a need to closely watch the future operation of this Code. It is also to be hoped that many countries will accept this Code as soon as possible.

#### b) Countervailing Duties

The aim of this duty is to offset any bounty or subsidy bestowed, directly or indirectly upon the manufacture, production or export of any merchandise which has an unfavorable effect on the industry of the importing country. This measure becomes a non-tariff trade barrier when the duty assessed on the imports exceeds the level of the amount of countervailing duty.

According to the U.S. legislation which differs from Art. 6 of GATT, countervailing duty may be assessed even in case there is no damage to the domestic industry. The problem lies in the fact that such a measure exists and can be enforced, whenever the importing side decides to do so.

#### c) Import Prohibitions by Reason of Unfair Competition

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 easily 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.

## **V. Governmental Aids, particularly Export Subsidies**

Most countries give direct aid aimed at promoting exports. These include i) reduction of taxes; (ii) interest rate subsidy; (iii) transportation subsidy and iv) export subsidy. These subsidies effect export cost and distort fair transactions. The following is an explanation on export subsidy; other forms of subsidies shall be explained in another chapter.

### **a) Export Subsidy System**

Generally speaking, when distortion of free competition arises from export subsidy, the subsidy can be offset by the countervailing duty of the importing country. However, in case this subsidy is given cleverly at various production stages instead of at the stage of export, it becomes difficult to calculate the amount of subsidy so that it cannot be correctly offset at the stage of imports. Lately, therefore, subsidies are not given in a simple manner where they can be easily recognized and calculated but are given in a clever manner in the aspect of taxes and other means. For example, as a measure to overcome the economic crisis, France enforced import quotas on four items from July, 1968 and at the same time adopted the export subsidy system.

### **b) Suppliers' Credit**

In the export of capital goods and plants, in particular in exports to the developing countries and the communist bloc, the system of the financing of credit on the part of the exporter has been adopted and the competition among advanced countries concerning the terms of suppliers' credit is becoming intensified. There is no problem in suppliers' credit when the exporter depends on his own capital or loans from the city bank. The problem arises when the exporter obtains credit below the market level either by re-financing at reduced cost or by interest rate subsidy. This constitutes state subsidy and becomes a non-tariff trade obstacle. Strictly speaking, there are many advanced countries which adopt such practices.

## **VI. Distortion Arising out of Tax Systems**

There are visible and invisible non-tariff trade obstacles. Of the invisible obstacles, interest has come to be attracted to distortion arising out

of tax systems. The example is the border tax adjustment. The problem has developed to the level of whether adjustments should be made in only indirect taxes or should include direct taxes. This problem is the subject of dispute between the EEC and the U. S. in connection with the TVA system. However, when the essence of the problem is considered, it is a problem common to all countries.

a) Border Tax Adjustment

Border tax adjustment is the system of refunding the domestic indirect tax on export items and assessing indirect taxes of the same amount as domestic products on imports. This measure is allowed under the present interpretation of the GATT; however, this applies only to indirect tax and there is no refund of direct taxes. One reason is because it is difficult to calculate the effect of relief on direct taxes on the price; in other words, the amount shifted to the price. The dispute between EEC and the U. S. rose out of Germany's move in 1968 to replace the cascade turn-over tax with TVA. Strictly speaking, the effect of such a tax reform on international trade concerns not only the U. S. but all other countries including Japan. Japanese businessmen have not yet expressed any dissatisfaction with this change; however, problems are likely to arise when evidence of distortion becomes clear after closer study.

b) Motorcar Tax and Other Charge

Another problem of domestic tax is the motorcar tax assessed in France, Belgium, Italy and Australia. This tax increases according to the piston displacement and horsepower of the engine. This tax is regarded as an effective means to restricting the import of large U. S. cars. Japanese motorcar makers are not influenced by this system since all Japanese cars are of the smaller size.

## **VII. Health, Safety and Technical Requirement and Similar Regulations**

a) Health and Safety Regulations

Exceedingly strict health and sanitation standards concerning foods, drugs and toys sometimes constitute non-tariff trade obstacles. There was the example of accusations of Japanese toys using harmful coloring.

## b) Technical Requirements

Technical requirements concerning machinery also include elements which constitute non-tariff trade obstacles.

### 1) Inspection by ANCC in Italy

For example, in the instance of exports of machinery to Italy, it is necessary to obtain the inspection of the ANCC and the stamp of approval of the inspection authority of the exporting country is not recognized. Due to the failure of the ANCC to dispatch an inspecting official for several months, there were instances in which the date of delivery could not be observed.

### 2) Inspection by ASME in the United States

Many states and local governments in the United States prohibit the use of boilers and high pressure vessels which bear no seals of inspection by the American Society of Mechanical Engineers (ASME). The seals of inspection can only be stamped after the inspector, who holds the licence issued from the ASME, has inspected the actual process of construction of foregoing articles.

As a result, whenever a producer of such articles accepts an order, he has to ask a qualified inspector to come to stay in Japan for a long period. Enormous expenses and time required for such inspection are significant trade barriers.

### 3) Rules and Regulations under the Wool Products Labeling Act of 1939 in the United States

Any imported wool product must have labeling on the quality of the product, and, until the inspection by the Federal Trade Commission is completed, the delivery of such product is suspended. Since it is time consuming and costly to draw up necessary papers and certificates, and since inspection is to be made at the expense of the importer whenever the Federal Trade Commission so decides, this rule may constitute a significant trade barrier.

## **VIII. Marks of Origin & Certificates of Origin**

### a) Marks of Origin

#### 1) Marks of Origin in the United States

Every article imported into the United States is to be marked or labeled in legible English words, in a conspicuous place, in such manner as to in-

dicating the country of origin of such article. Further, such marking or labeling is to be as nearly indelible and permanent as the nature of the article will permit. Since it may be costly, time consuming, and sometimes technically difficult to meet these requirements, they can have, depending on the actual application, a significantly restrictive effect on imports.

## 2) Marks of Origin in the United Kingdom

On some 300 items of the imported industrial products mainly of consumer goods, it is required to affix the marks of origin. Such a requirement becomes a trade barrier when compliance is technically difficult or costly.

## b) Certificates of Origin

### Certificates of Origin in the 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. This is a barrier to trade.

## **IX. Import Deposit and Import Declaration System & etc.**

A number of countries and many particularly among the developing countries require import deposit in case of international trade. There would be no real damage in case this deposit accounts for a small percentage of the value of imports; however, there are extreme cases demanding as much as 400 per cent of the value of the imports. Furthermore, when the deposit of such guarantee money extends over a considerable period, it has the effect of a ban on imports. This is an example of grievous non-tariff obstacle.

## **X. State Monopolies**

### **Government Monopoly Goods**

Some advanced countries adopt the policy of state monopoly which enables authorized purchasing agencies to monopolize imports. There are instances in which this system constitutes a trade barrier by obstructing free transactions. Items include tobacco, alcohol, salt, matches, etc. Particularly, monopolies are recognized for the import of agricultural products mainly for the purpose of protecting the domestic industry. In the case of state monopolies, it is possible to directly and intentionally limit imports by setting up quantity limitations and this is the cause of dissatisfaction on the part of foreign exporters. Another problems that arises out of this system is the effect of the special price which the state or state monopoly assesses on the sale price of the imported goods in order to realize marginal profits and this seriously restrains importers from increasing quantity.

## **XI. Government Procurement Policies and Others**

In procuring materials and supplies, most government agencies place priority on domestic suppliers. There are countries in which this priority is a government policy while others leave the matter at the discretion of the agencies themselves. Tenders are controlled by government office notices and foreigners are at times not permitted to participate.

A considerable number of countries require that their own ships be used for the transport of materials. These policies constitute non-tariff barriers.

### **a) Buy-National Products Movement**

#### **1) Buy-American**

As a general rule, the Federal Government agencies give preferences to goods produced in the United States in their public works. Similar measures are taken in many states, cities and other local agencies. The purchase of foreign goods by the Federal Government agencies is allowed only when the price differential between foreign and domestic goods is more 6% (12% in unemployment areas), and for the purchases made by the Department of Defence and by the United States Coast Guard, the price differential must be over 50%. Some of local agencies prohibit the purchase of foreign goods entirely. "Buy American", practiced at various

stages of government at varying degrees, is a significant barrier to trade.

2) Buy-Canadian

When the Federal Government and the provincial governments make purchases, it is customary to grant preferences to domestically produced goods. This is a significant barrier to trade.

3) Buy-British

Although it is not statutorily stipulated, priority is customarily given to the domestic products in the government procurement, thus affecting trade.

4) Buy-Greek

In the procurement by the Greek public agencies, goods of Greek origin must be purchased instead of similar goods of foreign origin, unless the domestic price of the former exceeds by 30-35% the import price of the latter.

b) Flag Discrimination

1) Ship-American

The U.S. Government adopts the policy that all government purchases be transported by American ships. This policy is mainly based on (1) the 1904 Military Transportation Act; (2) 1954 Merchant Marine Act and (3) Resolution 17 of 1934. (1) provides that all military purchases be transported by American ships; (2) provides that at least 50% of U.S. Government procurements and foreign aid supplies be transported by American ships and (3) provides that all agricultural products and other manufactured goods handled by the Government agencies as aid supplies be transported by American ships.

## **XII. Escape Clause, National Security Clause & etc.**

a) Escape-Clause in the United States

When, as a result of concessions given under trade agreements, the import of any article has increased and causes serious injury to domestic producers in the United States, the U.S. Government may take necessary import restrictive measures to prevent serious injury to such producers.

Invocation of escape-clause measures as well as frequent investigation under the escape-clause affect the stability of trade.

b) Temporary Protection in Australia

Under the Australian tariff system, temporary duty or temporary import restrictions can be imposed on imports as emergency measures.

Frequent recourse to these measures has adverse effects on the stability of transaction and also on the trade. Furthermore, in some cases these measures are resorted to without reasonable grounds.

c) National Security Clause in the United States

If any product is being imported so as to threaten to impair the national security of the United States, appropriate actions, for example, import restrictions, are taken until such threats disappear.

Since the concept of "National Security" is not clear and since the investigation under the clause tends to be made without sufficient reasons, the national security clause, depending on how it is actually applied, may constitute a significant obstacle to trade. (October 15, 1971)