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TRADE POLICY REVIEW MECHANISM

JAPAN

Report by the Government

In pursuance of the CONTRACTING PARTIES' Decision of 12 April 1989 concerning the Trade Policies Review Mechanism (BISD 36S/403), the initial full report by the Government of Japan for the review by the Council is attached.

NOTE TO ALL DELEGATIONS

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CONTENTS

	<u>Page</u>
OVERVIEW	1
I. OBJECTIVES AND TASKS OF TRADE POLICIES	3
1. The Economic Environment and Pattern of Trade in Japan	3
2. External Trade Policies	4
3. Recent Developments in Trade	9
4. Deregulation	12
5. Competition Policy	13
6. Regional Integration	18
II. FRAMEWORK AND IMPLEMENTATION OF TRADE POLICIES	20
1. Trade Policy Framework	20
2. Implementation of Trade Policies	24
III. PROBLEMS IN EXTERNAL MARKETS	32

OVERVIEW

The Japanese economy has been in a state of recession since May 1991. The growth rate of real GDP was 4.3 per cent in 1991, 1.1 per cent in 1992, and -0.2 per cent in 1993. Given this situation, and to achieve a steady recovery led by domestic demand, the Government of Japan established its "New Package of Economic Measures" in April 1993, "Immediate Economic Measures" in September 1993, and "Comprehensive Economic Measures" in February 1994, and has steadily implemented them. Due partly to these efforts, the Japanese economy has been heading for a gradual recovery since bottoming out in October 1993. Meanwhile, Japan's current account surplus came to approximately ¥14.6 trillion in 1993, a slight decline from the previous year. However, on a dollar basis, the 1993 surplus was larger than that in 1992 as a result of the J-curve effect from the stronger yen. In view of this development, Japan incorporated steps for import promotion into the series of economic measures mentioned above. It also further strengthened the import promotion policies already being implemented, through such measures as the establishment of the Government Actions for Import Promotion of March 1994. Japan has also implemented various measures to strengthen its competition policy and promote deregulation. As a result, and due to other factors, such as a further appreciation of the yen and an increase in the volume of imports, Japan's current account surplus in 1994 displayed an overall tendency to contract.

In terms of deregulation, Japan has put together three deregulation packages since September 1993, which cover over 1,000 items. Moreover, policies to promote deregulation in the future have also been established through setting up the Deregulation Action Program, strengthening of investigation concerning the establishment of new regulations, and creating a Deregulation White Paper. In the area of competition policy, Japan has demonstrated that it considers the active development of competition policies to be a key issue, through such decisions as the "Outline of External Economic Reform Measures", a Cabinet decision made in March 1994, its report, "Regarding the Policy for Promoting Deregulation Hereafter", approved by the Cabinet in July 1994. Accordingly, Japan is taking a variety of steps, including stricter administration and stronger enforcement of the Antimonopoly Act, a push for review of governmental regulations and the exemptions from the Antimonopoly Act, and surveys on the actual state of transactions, among others. Japan is thus committed to pressing on with reforms to create a society more open to the international community.

Starting in 1988, Japanese exports (on a customs clearance basis) increased for five straight years in yen terms, then started to decline in 1993, and dropped further in the first quarter of 1994, compared to the corresponding period of the previous year. They showed certain increases, however, in the second and third quarters. Imports (on a customs clearance basis) have fallen for three straight years in yen terms since 1991, mainly due to the drastic drop in import prices. Although imports continued to decrease on a year-on-year basis through 1994, they showed an upward trend in the second and third quarters, which may largely be accounted for by the increased volume of imports. The manufactured product import ratio is rising. It reached a record 52 per cent in 1993, and has continued to rise significantly since the beginning of 1994. Japan is continuing to make efforts to improve market access for agriculture, forestry and fishery products, as well as to expand imports of these products. In fact, Japan has become the largest net importer of agricultural products in the world, and its food self-sufficiency rate of 46 per cent is the lowest among the developed countries. Given these circumstances, the concerns of Japanese citizens about food security are quite high.

The maintenance and strengthening of a free and non-discriminatory multilateral trading system is Japan's fundamental policy. Japan has consistently supported the General Agreement on Tariffs and Trade (GATT) since it became a contracting party to the Agreement. It believes that the global economy has prospered under the open, multilateral trading system under the GATT. As a result of the Uruguay Round, a new multilateral trading system has been set up with the establishment of the World Trade Organization (WTO) that covers such new areas as trade in services and trade-related intellectual property rights. Japan strongly hopes that world trade will further expand under the WTO, thereby leading to greater global prosperity. Japan is determined to make a positive contribution toward these ends.

One of the aims of the Uruguay Round was to strengthen the dispute settlement system. Japan's basic policy is that trade-related disputes should be resolved within the multilateral framework, based on multilateral rules, under the WTO. Japan intends to work continuously to improve and reinforce these rules. On the other hand Japan is conducting bilateral negotiations with the United States and the EU, among others, recognizing that these negotiations will promote free trade and economic activities. Japan believes that the entire world will share in the fruits of these negotiations on the Most-Favoured-Nation treatment basis, thus contributing to the development of the overall global economy. Japan also believes that the promotion of cooperative economic relations with the nations of the Asia Pacific region through such a forum as the Asia Pacific Economic Cooperation (APEC) will foster the growth of an open regional economic community in the area. Japan feels that this will stimulate world trade and thereby contribute to the development of the global economy.

In recent years, there has been an increase in the number of and an expansion in the scope of regional arrangements as has been seen in, for example, the establishment of NAFTA and the enlargement of the EU to include Austria, Finland and Sweden. Such regional agreements together account for a considerable portion of world trade. Japan is of the view that this trend toward regional integration might weaken the free, non-discriminatory, and open multilateral trading system under the GATT/WTO, and is deeply concerned that it might lead to trading blocs being formed within the global economic community. From this perspective, Japan has insisted that these regional trade arrangements must not infringe on the rights under the GATT/WTO of the countries not parties to these arrangements, and that the arrangements should be open so as to supplement and reinforce the multilateral free trading system under the GATT/WTO and contribute to the further liberalization and stimulation of world trade.

I. OBJECTIVES AND TASKS OF TRADE POLICIES

1. The Economic Environment and Pattern of Trade in Japan

(1) The Japanese economic environment

Japan's economy has been in a state of recession since May 1991, but after bottoming out in October 1993, it is heading for a gradual recovery. The real GDP growth rate was 4.3 per cent in 1991, 1.1 per cent in 1992, and -0.2 per cent in 1993.

As for current economic conditions, investment in plant and equipment, in general, continues to stagnate, although certain steady trends have been noted in some industries. The employment situation is still quite severe, especially in manufacturing industries. Housing construction, however, is moving at a high level, while personal consumption is in a direction of general recovery. Industrial production, while experiencing a seesaw-like trend, is on the general increase, corporate profits generally indicate signs of recovery, and enterprises feel that business prospects are brighter. Thus, the Japanese economy, in spite of the continuous adjustment of corporate investment in plant and equipment and so on, is now basically on the road to recovery. However, some causes for apprehension have been noted, such as the movement of the exchange rate.

Japan's current account surplus was held at ¥5.20 trillion in 1990, partly due to special factors. This surplus began to rise in subsequent years for several reasons, including the elimination of these special factors, a rise in prices of export goods due to increased added value, and a weakening of imports due to the stagnant economy. In 1992, a surplus of ¥14.90 trillion was recorded. With the appreciation of the Japanese yen beginning in February 1993, the corresponding volume adjustment effect outweighed the surplus-expansion effect of the higher prices, causing the surplus to decline slightly to ¥14.61 trillion in 1993. In 1994, such factors as an even greater appreciation of the yen and an increase in import volume are causing the surplus to further decline. On a dollar basis, the surplus in 1993 was larger than that in 1992 because of the J-curve effect, unlike the yen-basis figures. However, during the first three quarters of 1994, the dollar-basis surplus declined compared with the same period of the previous year.

Looking at the balance of invisible trade, the investment income balance shows a surplus, while the travel and transportation balances show a deficit. Overall, the invisible trade balance shows a deficit. Looking at recent figures, the balance of invisible trade showed a record deficit of ¥3.17 trillion in 1990. However, for various reasons, including an expansion in the investments balance surplus, the deficit declined to ¥411 billion in 1993. In 1994, larger deficits in the transportation and travel balances have led to an expansion of the overall deficit figure.

In 1990, the balance of unrequited transfer accounts showed a deficit of ¥777.4 billion. This deficit ballooned to a record ¥1.70 trillion in 1991 due to a large-scale contribution to the Gulf Peace Fund. The deficit was ¥590.8 billion in 1992, and ¥678.7 billion in 1993. For the first three quarters of 1994, the seasonally adjusted deficit figure is ¥629.3 billion.

Japan's external net asset balance was ¥72.76 trillion at the end of 1993, up from ¥49.21 trillion at the end of 1990. This increase reflects the trend of Japan's current account surplus and a rise in Japanese foreign capital investment.

Looking at the dollar-yen exchange rate, the period average of the median inter-bank rate (Tokyo market) in 1990 was \$1=¥144.88. The yen began to appreciate from mid-1990, and the average rate-per-dollar was ¥134.59 in 1991 and ¥126.62 in 1992. From February to the summer of 1993, the yen soared, and the average rate for 1993 was ¥111.06. The yen began to rise again beginning the summer of 1994, reaching a record ¥96.35 (instantaneous rate) in November.

Japan's gold and foreign exchange reserves were stable in the first half of the 1980s. However, following the Plaza Accord of 1985, total reserves shot upwards until the figure surpassed US\$100 billion in April 1989. Subsequent years saw a slight decline in reserves, but from the beginning of 1993, this figure began to rise again, and at the end of November 1994, total reserves were at US\$122.1 billion.

(2) Trends in foreign trade

Due to such factors as the stagnant domestic economy, Japan's balance of payments surplus expanded for two straight years from 1991 based on trade statistics. In 1992, a surplus of ¥13.48 trillion was recorded, the second highest in history after 1986. However, the surplus declined 0.8 per cent from the previous year to ¥13.38 trillion in 1993. Year-on-year reductions were recorded as well for the first three quarters of 1994 (down 5.6 per cent, 2.5 per cent, and 10.6 per cent respectively). Thus, there has been an increasingly steady trend towards a reduced surplus. On a dollar basis, the trade surplus was \$120.2 billion in 1993, showing an increase of 12.8 per cent over the previous year. It was the third straight year that an increase was recorded.

Exports rose for five straight years from 1988. However, they declined to ¥40.2 trillion in 1993 (down 6.5 per cent from the previous year). Although exports fell 5.6 per cent in the first quarter of 1994 compared to the same quarter of the previous year, small year-on-year increases were recorded for the second and third quarters of 1994 (up 0.5 per cent and 2.4 per cent, respectively). On a regional basis, 1993 saw increased exports to such countries as China (up 26.5 per cent from the previous year) and to the ASEAN countries (up 6.7 per cent), while exports to the European Union (EU) (down 20.2 per cent) and the United States (down 3.2 per cent) dropped on a year-on-year basis.

Imports declined three straight years from 1991. In 1993, imports totalled ¥26.83 trillion, a year-on-year decline of 9.1 per cent. A decrease was also recorded in the first quarter of 1994 (down 5.6 per cent from the same quarter of 1993), but imports increased in the second and third quarters (up 2.0 per cent and 9.1 per cent year-on-year, respectively). On a regional basis, the 1993 figure was up for China (up 6.2 per cent year-on-year) and down for the Middle East (down 17.6 per cent), the European Union (EU) (down 15.2 per cent) and the United States (down 6.9 per cent). Import volumes have been consistently rising, up 4.2 per cent in 1993 over the previous year, and large year-on-year increases were recorded in the first three quarters of 1994 (up 8.5 per cent, 12.5 per cent, and 14.2 per cent, respectively). The rate of manufactured product imports has also been rising steadily, reaching a record 52.0 per cent in 1993 (up 1.8 points over the previous year). This figure continued to rise in 1994, with quarterly increases of 4.0 points, 3.6 points, and 2.5 points over the same three quarters of 1993.

2. External Trade Policies

(i) The maintenance and strengthening of a free and non-discriminatory multilateral trading system is Japan's fundamental policy, and since becoming a contracting party to GATT, Japan has consistently supported the GATT system. As a result of the Uruguay Round, the World Trade Organization (WTO) was established, and a new multilateral trading system has been established which covers such new areas as trade in services and trade-related intellectual property rights. Japan strongly hopes that under

the WTO, world trade will show even greater expansion in the future, and that global prosperity can be achieved. Japan intends to make its utmost contribution toward these ends.

(2) As a result of the Uruguay Round, the dispute settlement system has been strengthened. Japan's basic policy is that trade-related disputes should be resolved within a multilateral framework, based on multilateral rules, under the WTO, and Japan intends to work continuously to improve and reinforce these multilateral rules. Japan is also conducting bilateral negotiations with, among others, the United States and the EU, recognizing that such negotiations will encourage free trade and economic activity. For example, Japan considers that the conclusion of major sectors of the Japan-U.S. Framework Talks not only contribute to a constructive relationship between the two countries, but also to the development of the global economy as a whole, since the entire world will share in the benefits of the results of the talks on the Most-Favoured-Nation treatment basis.

(3) Moreover, through such a forum as APEC, the promotion of cooperative relationships with the nations of the Asia-Pacific region will foster the growth of an open regional economic community in the area. Japan feels that this will stimulate world trade and thereby contribute to the development of the global economy.

(4) Based on the recent economic environment in Japan and its foreign trade trends discussed above, an "Outline of External Economic Reform Measures" was approved by the Cabinet in March 1994. Under the Outline, the following concrete objectives were adopted as the basic policy concerning trade policy hereafter:

- (a) It is necessary to proceed with reforms that will bring about a high-quality economic society, open to the international community.
- (b) Effective means must be devised to bring about a significant and meaningful mid-term reduction in the current-account balance surplus, and to increase considerably imports of competitive foreign products and services.

Specifically, the following steps are important:

- (i) Proceeding with deregulation to bolster market mechanisms in Japan;
- (ii) Making standards and approval systems conform with international norms; and
- (iii) Supporting measures for promotion of imports of all sectors.

Promotion of deregulation

As outlined below, numerous Cabinet and other related decisions in recent years, position the implementation of deregulation as the means, among others, to correct differentials between domestic and foreign prices, thereby improving market access. As such, deregulation is an important aspect of import promotion policies.

Especially significant was the Cabinet decision made in July 1994 called "Regarding the Policy for Promoting Deregulation Hereafter". Under this decision, areas such as import promotion, market access improvement and distribution were selected as the priority areas for deregulation.

Moreover, by the end of FY 1994, a five-year Deregulation Action Program is expected to be established. Through such fundamental deregulation, Japanese systems and regulations will be brought into line with international norms and there will be smoother access to the domestic market.

International harmonization of standards and certification system

Through separate laws and ordinances of the responsible ministries and agencies, Japan currently implements regulations designed to protect such areas as life and health, consumer benefits, and the environment. (Examples of these regulations include the Road Vehicles Law, the Pharmaceutical Affairs Law, the Electrical Appliance and Material Control Law, and the Law for the Promotion of Recycled Resources.)

Based on the spirit of the GATT Agreement on Technical Barriers to Trade, prior notification has been made of standards, technical regulations and conformance systems concerning these laws. This has been done by means such as notifying the GATT Secretariat and providing information in various publications, including the Tsusho Koho (Trade Bulletin) and the Ministry of International Trade and Industry Official Bulletin. These and other measures are being implemented, inter alia, devised to bring these standards into conformity with international standards and to promote the acceptance of foreign experimental and examination data. Japan is also ensuring that the 60-day period for submitting opinions to the GATT Secretariat is firmly met. As a result, Japanese standards and conformance systems are comparable with those of other countries in such aspects as transparency and conformity to international standards.

Since 1992, the Office of Trade and Investment Ombudsman (OTO) has been in the process of determining necessary policy measures based on the recommendations of the Market Access Ombudsman Council of OTO, which deals with problem areas raised by foreign enterprises and others. In February 1994, various measures were taken to reinforce the system, including making the Prime Minister the head of the Office of Market Access of OTO (for more details, see II 1. (2) (c) The Office of Trade and Investment Ombudsman).

Import promotion policies

Since October 1992, Japan has been strengthening its import promotion policies through successive economic policy programs devised in April and September 1993 and in February 1994, as well as the FY 1994 Government Actions for Import Promotion of March 1994, established as part of the External Economic Reform measures. These policies have led to the implementation of taxation and financing measures that promote imports, supporting efforts made by foreign companies and governments to increase exports to Japan, and the improvement of the import promotion infrastructure.

Import expansion policies established and strengthened since October 1992 are as follows:

Extension and expansion of the System of Tax Incentives for Manufactured Product Imports.

- Relaxation of requirements for application concerning the import increase rate (FY 1993 tax reform).
- Enabling sales subsidiary companies of foreign manufacturers to use tax deductions or credit, etc. (FY 1993 tax reform).

- Extension of the period of validity (April 1, 1995-March 31, 1997) (FY 1995 tax reform).
- Addition of products eligible for this system (medical products and vehicle parts) (FY 1995 tax reform).

Expansion of policy financing.

- Establishment of a financing system at the Japan Development Bank to strengthen the Financing for Improvement of the Import Infrastructure, thereby further strengthening the already-existing Financing for Improvement of the Import System.
- Expansion of Manufactured Product Import Financing at the Export-Import Bank of Japan.
- Implementation of temporary interest-reduction measures for this financing and loans provided by the Small Business Finance Corporation and the People's Finance Corporation to facilitate import sales.

Expansion of import promotion activities by the Japan External Trade Organization (JETRO).

- Opening of the Business Support Center, which provides free office space, etc. to support foreign business people coming to Japan to promote exports.
- Opening of the Integrated Import Promotion Center and local Import Promotion Centers to promote the display and sales of imported goods in regions and major cities other than Tokyo.
- Promotion of housing imports, through establishing permanent exhibition zones for imported houses, etc.

Promoting the establishment of Foreign Access Zones (FAZ).

Since March 1993, the following 13 regions have received approval under the Local Import Promotion Plans to establish Foreign Access Zones, which include ports and airports as well as their surrounding areas. A greater increase in imports can be expected in these Zones, through the creation of concentrated facilities and projects to promote imports within these regions.

- Regions approved in March 1993:

Kansai International Airport Area (Osaka Prefecture); Osaka Port Area (Osaka city); Kobe Port Area (Kobe city); Matsuyama Port Area (Ehime Prefecture); Kitakyushu Port Area (Kitakyushu city); Nagasaki Airport Area (Nagasaki Prefecture)

- Regions approved in March 1994:

Kawasaki Port Area (Kawasaki city); Yokohama Port Area (Yokohama city); Hiroshima Airport Area (Hiroshima Prefecture); Shimonoseki Port Area (Yamaguchi Prefecture); Oita Port Area (Oita Prefecture); Shin-Chitose Airport Area (Hokkaido)

- Region approved in December 1994:

Komatsu Airport Area (Ishikawa Prefecture)

As a result of these projects and policies to promote importation, there has been a steady increase in imports into Japan. Dollar-based imports in FY 1993 were up 4.8 per cent over the previous fiscal year.

Major Japanese Policies Concerning Foreign Trade

- April 12, 1993 The Advisory Council of the Office of Trade and Investment Ombudsman (OTO) submitted recommendations to the Headquarters of OTO for market opening measures, including reforms in food product date-marking and easing of regulations governing the activities of foreign lawyers in Japan, .
- April 13 Adoption of "New Package of Economic Measures"
- Sept. 16 Ministerial Conference on Economic Measures adopted the "Immediate Economic Measures," which include deregulation of 94 items, covering such things as the promotion of residential land developments
- Oct. 7 15th Trade Conference adopted Basic Policies for Import Expansion
- Nov. 8 Advisory Group for Economic Structural Reform submitted its Interim Report on deregulation to Prime Minister Hosokawa
- Nov. 15 Adoption of additional items related to the creation of a social capital infrastructure based on the Immediate Economic Measures of Sept. 16
- Dec. 15 Passage of FY 1993 2nd Supplementary Budget Proposal totalling ¥708.7 billion, which includes financing measures for the Immediate Economic Measures
- Dec. 16 Advisory Group for Economic Structural Reform submitted its Completed Report to Prime Minister Hosokawa
- Jan. 28, 1994 Joint conference of groups, including the Council on Industrial Structure, presented its report to the Minister of International Trade and Industry. The Report included such deregulation measures as an increase in the minimum floor space allowed under adjustments by the Large-Scale Retail Stores Law
- Feb. 8 Adoption of "Comprehensive Economic Measures" totalling ¥15.25 trillion
- Feb. 15 Adoption of "Regarding the Policy for Promoting Administrative Reforms" by the Cabinet
- March 28 First meeting of the Working Group for Import Promotion, Market Access Improvement and Distribution Related Issues, of the Administrative Reform Promotion Headquarters
- March 29 Cabinet approved "Outline of External Economic Reform Measures," that established policies in three areas, including automobiles and auto parts, as well as deregulation policies to promote the working of market mechanisms and improve market access to Japan.

- May 13 The Market Access Ombudsman Council of OTO submitted recommendations on market opening measures to Prime Minister Hata. These measures included increased flexibility in the completion inspection system of automobiles.
- June 24 Office of Market Access of OTO decided on policy actions on market opening measures.
- July 5 Cabinet approved "Regarding the Policy for Promoting Deregulation Hereafter."

3. Recent Developments in Trade

(1) Mining and industrial sector

As a result of a series of steps to reduce or eliminate customs duties, Japan's average tariff rate for mining and industrial products stands at 3.8 per cent (1988; GATT rate basis), lower than the 5.5 per cent rate for the United States and the 5.6 per cent rate for the European Community. As a result of the Uruguay Round, the average Japanese tariff rate will decline by 61 per cent compared with that before the Uruguay Round, a much larger reduction than those made by the United States and the EU (both between 30 per cent and 40 per cent). Thus, Japan's average tariff rate will be set at 1.5 per cent. This is less than the rates for the United States and the EU (both between 3 per cent and 4 per cent). With Japan's liberalization of imports on coal in April 1992, no mining and industrial products are currently under an import quota system, making Japan's market one of the most open in the world. Thanks to such efforts, "border measures" in Japan, such as customs duties and quantitative import restrictions, are the least restrictive in the world today. Nevertheless, Japan is promoting further improvements while also taking steps to expand imports. Efforts are also being made to promote the smooth progress of industrial structural adjustment so that the Japanese economy may be brought into greater harmony with the economy of the world at large. With a view toward promoting a balanced expansion of trade, Japan does not impose such "border measures" as import restrictions, even in connection with domestic industries that have suffered a decline in relative competitiveness due to changes in the economic environment. Rather, following the market mechanism, Japan has attempted in such cases to encourage the movement of labour and capital to more highly competitive industries.

Japan has achieved important results over the past ten years from measures designed to promote the opening of its markets and the expansion of imports. These included results produced by the 1985 Action Program for Improved Market Access, the introduction in 1990 of a taxation system designed to promote manufactured imports, and a comprehensive import expansion program, unequalled in other developed countries, which eliminated tariffs on more than one thousand items. From 1985 to 1993, Japan's imports of merchandise increased dramatically from 40.2 billion dollars to 125.2 billion dollars (both on a customs clearance basis). As a result, the percentage of manufactured products in Japan's total imports jumped from 31.0 per cent to 52.0 per cent over the same period.

In the past, Japan has implemented voluntary export restraints (VERs) on the basis of bilateral negotiations in such areas as automobiles and steel. However, most of these VERs are no longer in place and the remaining VERs are to be abolished or otherwise brought into conformity with the WTO Agreement.

(2) Agriculture, forestry and fisheries sectors

As the internationalization of the Japanese economy progresses, Japan has made every possible effort to improve market access for agricultural, forestry and fishery products despite the difficulties surrounding domestic industries of these fields. As a result, the number of items subject to import restrictions was reduced from 103 in 1962 to 12 in 1994 (22 items under the Harmonized System tariff-line basis).

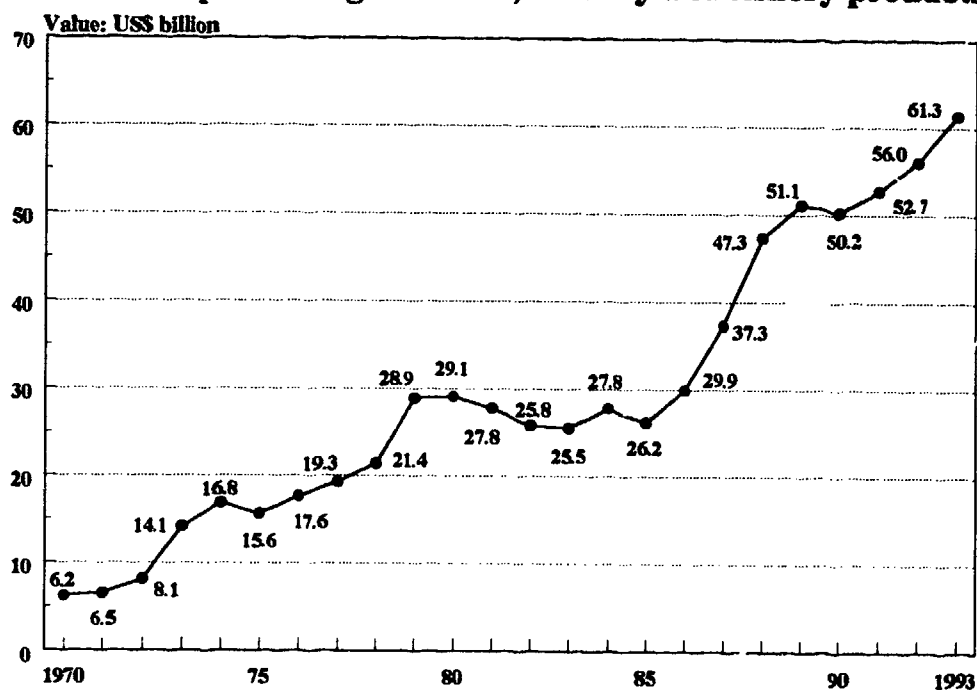
Japan did its utmost for the Uruguay Round negotiations on agriculture. As a result of the negotiations, Japan will replace import restrictions on all items except for rice with tariffs. As for rice, despite very difficult domestic conditions, Japan will provide minimum-access opportunities.

Upon accepting the Uruguay Round Agreement on Agriculture, Japan plans to implement several measures within the framework of the Agreement in order to adjust its agricultural sector and rural areas to the new international environment. These include the improvement of the agricultural infrastructure, the measures to promote the transfer of rights on agricultural lands, and the measures to promote development of hilly and mountainous areas.

Japan's food self-sufficiency rate fell below 50 per cent on a calorie basis in FY 1992, to 46 per cent. This is the lowest level among the industrialized nations. Given this situation, concerns of Japanese citizens on food security are quite high.

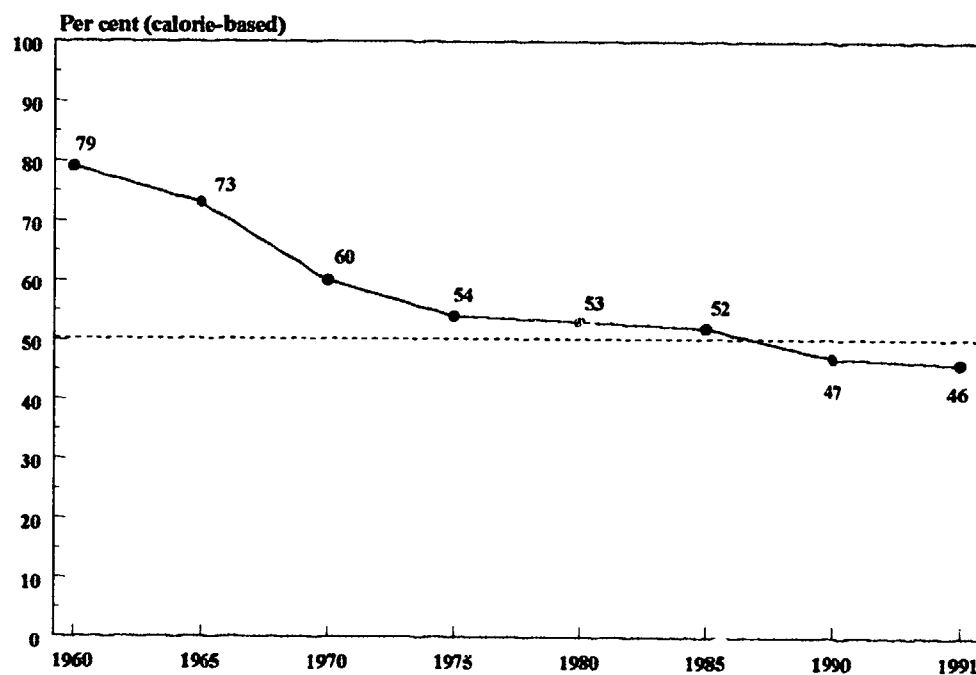
Along with the above-mentioned efforts to improve market access for agricultural, forestry and fishery products, Japan is also working to expand imports. In 1993, Japan imported US\$61.3 billion worth of agricultural, forestry and fishery products, while it exported US\$2.8 billion worth of these products. This deficit of US\$58.6 billion makes Japan the largest net importer of agricultural, forestry and fishery products in the world. Moreover, as part of its domestic policy, Japan has been making efforts to control the production of specific agricultural products that tend to be over-produced, in order to prevent possible confusion of world markets by their exportation.

Chart I
Trend of imports of agricultural, forestry and fishery products



Source: Government of Japan.

Chart II
Trend of food self-sufficiency in Japan



Source: Government of Japan.

4. Deregulation

(1) Past efforts

The Japanese government considers deregulation an essential issue of national policy, and is steadily proceeding with its deregulation efforts.

Recently, the government designated over 1,000 categories for deregulation in its three-step deregulation program: "Immediate Economic Measures" (Ministerial Conference on Economic Measures decision of September 16, 1993), "Regarding the Policy for Promoting Administrative Reforms" (Cabinet decision of February 15, 1994), and "Regarding the Policy for Promoting Deregulation Hereafter" (Cabinet decision of July 5, 1994).

(a) "Immediate Economic Measures"

In a Cabinet meeting in August 1993, the Chief Cabinet Secretary proposed a study of deregulation as well as of policies to return profit differentials caused by the strong yen. Following approximately a month of study, these measures were adopted. They included separate deregulation measures for 94 items as a new first step in reforming the economic structure, and to encourage effectively the expansion of domestic demand and the promotion of imports, among other.

(b) "Regarding the Policy for Promoting Administrative Reforms" (Fundamental Principles of Administrative Reforms)

These Principles provide for the pursuit of basic policies for all problem areas that require administrative reform. In the Principles, special consideration is given to the Final Report (October 27, 1993) of the Third Provisional Council for the Promotion of Administrative Reform, among others. The chief pillar of the Principles is the promotion of deregulation, among others.

Specifically, based on the results of the review of licensing and approvals conducted by the "New Package of Economic Measures" of April 1993, 781 categories of deregulation measures were designated to be implemented for the time being. At the same time, the Principles provided for future policies on the promotion of deregulation, including the establishment of a Deregulation Action Program (provisional name), strengthening of investigations concerning the establishment of new regulations, and the creation of a Deregulation White Paper (provisional name).

(c) "Regarding the Policy for Promoting Deregulation Hereafter" (Deregulation Promotion Outline)

Adopted by the Cabinet decision of March 29, 1994, the "Outline of External Economic Reform Measures," one of the steps to strengthen market mechanisms and improve access to Japanese markets, established as the top priority the fundamental reform of public regulations. As areas of study, the Outline listed (i) housing and land, (ii) information and communications, (iii) import promotion, market access improvement and distribution, and (iv) finance, utilities and insurance, and the study results were scheduled to be submitted at the end of June 1994. Furthermore, for areas (i) to (iii) above, a Working Committee comprised of both foreign and domestic specialists was established at the Administrative Reform Promotion Headquarters to serve as a special advisory group to the Headquarters. As a result, deregulation measures for 279 categories were determined in the Deregulation Promotion Outline.

In addition, the Outline designated a basic policy to promote revisions of regulations within each ministry and agency while establishing the Deregulation Action Program. It also provided for the follow-up of deregulation measures.

The deregulation policies described above were determined only after careful and comprehensive study of the requests and opinions of both domestic and foreign interested parties. These policies cover a wide range of fields, and they define as clearly as possible the specific details of deregulation and implementation periods. For those categories that require the definition and clarification of specific terms and conditions, Japan is committed to defining the direction of deregulation over the medium-term so that it will be easier for consumers, foreign and domestic entrepreneurs, and others to respond to deregulation measures. These policies show both at home and abroad that Japan is improving the structure of its economy, and that it is making even greater efforts to promote alignment with international norms.

(2) Future efforts

Based on the results of previous deregulation measures, the Deregulation Action Program will be established as a five-year action plan to engage in further promotion of deregulation in an active and structured fashion. As noted above, this Program will be set up during FY 1994. To establish the Program, the opinions and requests of both foreign and domestic interested parties are being carefully considered, as well as the study results of the Deregulation Study Committee of the Administrative Reform Promotion Headquarters. Efforts are thus being made to create a practical and meaningful Program.

A further objective has been the creation of a Deregulation White Paper (provisional name) by approximately the end of FY 1994 to provide citizens with easy-to-understand information about deregulation measures regarding official regulations. This White Paper is currently being written.

5. Competition Policy

Japan's major objective of recent years has been the promotion of domestic economic reform through deregulation and other means, thereby allowing the full operation of market mechanisms that would lead to the diversification of consumer choice and the improvement of standards of living, while also building an energetic and creative economy. To accomplish this, the effective and appropriate enforcement of the Antimonopoly Act is becoming increasingly essential to the promotion of fair and free competition between both domestic and foreign firms, and to ensuring that consumers are benefited. Through its Outline of External Economic Reform Measures (March 1994) and the "Regarding the Policy for Promoting Deregulation Hereafter" program (July 1994), the government has displayed commitment to the idea that active development of competition policy is a key issue.

From such perspectives, the Fair Trade Commission (FTC) has, as described below, strictly dealt with Antimonopoly Act violations and at the same time actively implemented competition policy by strengthening their deterrence and ensuring the transparency of law enforcement.

- (1) **Strict administration and strengthening enforcement of the Antimonopoly Act**
- (a) **Active elimination of Antimonopoly Act violations**

The FTC investigates alleged violations of the Antimonopoly Act, and if violation is detected, the FTC takes measures to eliminate the violation, such as issuing a recommendation. The number of recommendations issued in recent years is as follows: 34 in FY 1992, 31 in FY 1993, and 16 in FY 1994 (through the end of December).

- (b) **Publication of formal actions and warnings**

The FTC has traditionally published details of formal actions, with a view to further enhancing the deterrent effect of such actions, preventing similar violations and ensuring the transparency of the actions taken. All cases of warning, other than exceptional cases, have also been made public.

- (c) **Strengthening the investigation system**

As part of the measures to strengthen its executive power over violations of the Antimonopoly Act, the FTC has been expanding and strengthening its investigation system. The number of personnel assigned to the investigation department was increased from 178 at the end of FY 1992 to 203 by the end of FY 1994.

- (d) **Increasing the level of surcharges and raising criminal fines**

An act to amend the Antimonopoly Act took effect on January 15, 1993 to increase by twenty times (from five million yen to one hundred million yen) the upper limit of criminal fines against firms or trade associations for offenses of private monopolization, unreasonable restraint of trade (cartel activity), etc., as distinct from criminal fines against actual offenders such as employees. Two recent amendments to the Act, the first of which was enacted in 1991 to increase the basic rate of surcharge calculation by four times, have significantly enhanced the overall deterrence of Antimonopoly Act violations.

- (e) **Resorting to criminal penalties**

In June 1990, the FTC made public the policy of accusation. Under this policy, the FTC actively brings charges seeking criminal penalties for vicious and serious violations which are considered to have widespread influence on people's lives. In January 1991, Liaison Meeting on Criminal Accusations was established by the Public Prosecutor's Office and the FTC for exchange of views and information.

After publication of the policy in November and December 1991, the FTC brought criminal charges in a price-fixing case involving industrial-use polyvinyl chloride stretch film. In February 1993, the FTC also brought criminal charges of bid-rigging on orders placed by the Social Insurance Agency for peel-off stickers for pension notification cards.

- (f) **Effective utilization of the damage remedy system**

In order for the damage remedy system to be effectively utilized for antimonopoly violations, the FTC made public specific standards including those concerning submission of materials and data to the court in May 1991. The FTC is to apply these standards properly.

(g) Consultation and complaint from foreign firms

The FTC established the "Consultation and Complaint Section for Foreign Firms" in June 1990, and has dealt with consultations and complaints from foreign firms concerning the Antimonopoly Act in a prompt and adequate manner.

(2) Measures addressing bid-rigging (dango)

The FTC is making vigorous efforts to expose bid-rigging practices. Of the 31 recommendations issued in FY 1993, 14 dealt with bid-rigging cases. The FTC is committed to the strict enforcement of the Act in future bid-rigging practices in the future as well. Moreover, to prevent violations of the Antimonopoly Act, "The Antimonopoly Act Guidelines Concerning the Activities of Firms and Trade Associations in Relation to Public Bids" was announced in July 1994.

Other policies are being pursued to ensure that bid-rigging activities are eliminated and prevented. These include the creation of a communication system between the FTC and government authorities, including regional public authorities, and training programs for officials in charge of procurements to ensure a complete and correct understanding of the Antimonopoly Act.

(3) Ensuring the transparency of law enforcement and the promotion of preventive policies

(a) Formulation of guidelines

To ensure the strict and effective application of the Antimonopoly Act, not only must Antimonopoly Act violations be eliminated, but also firms and consumers must have a broader and deeper understanding of the objectives and regulation details of the Act, as well as of how the Act is applied.

Recent publications designed to meet this objective are "The Interpretations Concerning Administrative Guidances Under the Antimonopoly Act" of June 1994, which gives specific examples concerning administrative guidance that may give rise to problems under the Antimonopoly Act, and "The Antimonopoly Act Guidelines Concerning the Activities of Firms and Trade Associations in Relation to Public Bids" of July 1994, which is designed to enhance prevention of bid-rigging and to promote lawful activities on the part of firms and trade associations.

(b) Clarification of administrative procedure standards concerning mergers, stockholding, etc.

To clarify how authorizations of stockholding by financial companies are handled, "Administrative Procedure Standards for Authorization of Stockholding by Financial Companies" was created and published in June 1994.

In August 1994, the "Administrative Procedure Standards for Examining Mergers, Etc. by Companies" and the "Administrative Procedure Standards for Examining Stockholding by Companies" were revised and published. These standards are designed to ensure a greater transparency of law application by further clarifying administrative procedure standards concerning mergers, stockholding, etc.

To clarify permitted areas of activity for venture capital firms, "Concerning the Treatment of Venture Capital Firms Under the Antimonopoly Act" was revised, and in August 1994, "Interpretations of the Application of Provisions of Section 9 of the Antimonopoly Act with Respect to Venture Capital Firms" was published.

(c) Support for the development of Antimonopoly Act Compliance Programs

Triggered by such causes as the publication of the "Guidelines Concerning Distribution Systems and Business Practices" (July 1991), moves to develop Antimonopoly Act compliance programs by firms, etc., including the compilation of Antimonopoly Act compliance manuals, have been increasing, and the FTC is providing active support and assistance to voluntary attempts by firms and others in developing compliance programs.

(4) Review of government regulatory systems and exemption systems from the Antimonopoly Act

(a) Review of government regulatory systems

To promote free and vigorous activities by firms, and to increase advantages to general consumers through the operation of the market mechanism, the FTC has been actively pursuing the deregulation of government regulatory systems since the latter half of the 1970s.

Since July 1988, the "Study Group on Government Regulations, etc., and Competition Policy" has been in place to further promote activities related to the review of government regulations. This Study Group has been studying problems related to competition policies vis-à-vis government regulations, as well as methods of resolving these problems. In December 1993, the Study Group published its study results concerning the status of government regulations, problem areas, and how these areas should be reviewed. In August 1994, the Group published its study results concerning the status of government regulations for the transportation sector, as well as problem areas within that sector.

(b) Review of systems for exemption from the Antimonopoly Act

The "Regarding the Policy for Promoting Deregulation Hereafter" report (adopted by the Cabinet in July 1994) provided for the review of the systems permitting the exemptions of the Antimonopoly Act to cartels and others through individual laws, from the viewpoint of effecting their abolition within five years, in principle, and a concrete conclusion shall be reached by the end of FY=1995.

Based on the Cabinet decision noted above, the FTC is encouraging ministries and agencies concerned to carry out such reviews through various forums, including the Liaison Meeting among Ministries and Agencies Concerned with the Review of Exemption Systems from the Antimonopoly Act, which has been working since November 1993. The number of cartels that fall under these exemptions has declined dramatically from a peak of 1,079 (at the end of FY 1965) to 59 as of December 1994.

(c) Review of exemptions on the resale price maintenance system

Although the FTC cut back the number of commodities designated as approved items for exemption from resale price maintenance, some cosmetics priced not more than ¥1,030 and OTC (over-the-counter) pharmaceuticals still remained. However, a review of commodities approved for exemption on resale price maintenance was published in April 1992, in which approximately half of these articles were to be eliminated from the approval list. This elimination has been carried out in principle from April 1, 1993. As for literary works that have received resale price maintenance exemption, a survey is currently being performed of the distribution system and related areas for books, magazines and newspapers.

The FTC plans to work on the elimination of the resale price maintenance system for all currently designated products by the end of 1998. It also plans to work on the limitations and the clarification of what constitutes a literary work.

(5) Keeping competition policy in line with the globalization of economic activities

The FTC has always been fully aware of the importance of international harmonization and cooperation regarding competition policies. The FTC regularly exchanges views with authorities charged with overseeing competition in the EU, the United States, and other countries to deepen mutual understanding and to develop cooperative relationships. As for multilateral relationships, the FTC is participating in discussions within the Committee on Competition Law and Policy of the OECD concerning such problem areas as convergence of competition policies and the interaction between competition policies and trade policies.

The FTC has always made efforts to strengthen cooperation with competition authorities in Asian and Oceanic countries. On November 9 and 10, 1994, the "Fifth Conference on Competition Policies among Asian and Oceanic Countries" was held in Tokyo. From November 7 to 24, 1994, as part of its Official Development Assistance (ODA) programs, the Japan International Cooperation Agency also held technical training seminars on the Antimonopoly Act and competition policies, chiefly for mid-level antimonopoly officials from Asian countries. The FTC gave its full cooperation to these seminars.

Furthermore, the Study Group on International Problems Relating to the Antimonopoly Act examined the actual condition of import-export restrictions arising from trade friction (safeguards, anti-dumping measures, voluntary export restraints, the setting of numerical targets to increase imports and problems under competition policy). Its findings were publicized in a report released in June 1993.

(6) Surveys on the actual state of transactions

(a) The FTC has been conducting surveys on the actual state of transactions between firms in specific industries from the standpoint of competition policy. Recently, the FTC undertook surveys on the actual state of transactions between firms in four areas - paper, flat glass, automobile parts and passenger cars. These surveys assessed such aspects as the status of long-term business relationships, and the impact on transactions of stockholding and inter-company dispatching of company directors. The results of the surveys were published in June 1993.

Although the FTC did not find any conduct which might violate the provisions of the Antimonopoly Act, it did point out several matters from the view of competition policy to the parties concerned in each industry, and expected these parties to take voluntary actions to solve these problems. The FTC made a follow-up survey on measures taken by the relevant companies in each industry, and it reported in December 1993 and August 1994 that they had made, or were making, serious efforts for improvement.

In July 1994, the FTC reported the results of surveys on the actual state of transactions between firms in the fields of agricultural chemicals and synthetic rubber.

(b) From the standpoint of competition policy, the FTC has made successive surveys of the six major corporate groups that together hold a great position in the Japanese economy to contribute to the development of an objective common awareness, and to contribute to a deeper and more comprehensive understanding, both at home and abroad, by reaching an accurate understanding of the ties within these groups, and of the activities that these groups perform. The most recent survey results were reported in July 1994.

(7) Addressing issues pertaining to the passing along of the benefits of the strong yen to consumers

Whereas the FTC has been actively eliminating violations of the Antimonopoly Act, it will increase its efforts to collect information on violations of the Act including cartels, resale price maintenance and unreasonable obstruction of parallel imports concerning import-related goods, and seek to eliminate such violations, because such conduct unreasonably obstructs the passing along of the benefits of the strong yen to consumers. Recently the FTC rendered a recommendation decision in a case where there was obstruction of parallel importation of lower-priced re-agents for BG analyzers (medical equipment).

The FTC has also undertaken surveys on the actual state of price movements, trade practices, and the market structures of the steel materials and petrochemical markets. These fields were selected because they are considered to be greatly affected by the strong yen for various reasons, including the fact that they have a high dependence on foreign raw materials. The results were reported in April 1994. From the same perspective, a survey of consumer goods - food products (coffee, tea, chocolate, etc.), cosmetics (lipstick, etc.) and sporting goods (tennis balls, etc.) - was also undertaken, and the results were reported in June 1994.

6. Regional Integration

(1) In recent years, there has been an increase in the number of and an expansion in the scope of regional arrangements, as has been seen in, for example, the establishment of NATA and the enlargement of the EU to include Austria, Finland and Sweden. These arrangements altogether have come to cover a large portion of world trade. Such regional integration may contribute to the development of the overall global economy by stimulating economic growth within the respective regions. However, in order to make it succeed, it is indispensable that such regional integration be open to countries outside the regions.

(2) The GATT system, based on the Most-Favoured-Nation treatment, has made a significant contribution to the development of the postwar global economy and world trade. The pillar of Japan's external trade policies is a system of non-discrimination based on the GATT/WTO. Regional trade arrangements are an exception to the fundamental principle of GATT/WTO's Most-Favoured-Nation treatment. As mentioned above, recently, their number has been increasing and their coverage within world trade has been expanding. Japan believes that such a situation must be avoided, whereby regional trade arrangements weaken the free, non-discriminatory, and open multilateral trading system formed under the GATT/WTO and lead to trading blocs.

(3) From this point of view, Japan not only believes that these regional trade arrangements must not infringe on the rights under the GATT/WTO of the countries not party to the arrangements, but also that these arrangements should be open, that the negative influence of these integrations on the contracting parties outside the regions should be minimized as much as possible, that such arrangements, as a whole, should supplement and strengthen the multilateral, free-trading system under the GATT/WTO, and that these arrangements should lead to even further liberalization and stimulation of world trade. In other words, Japan believes that the following three points should be ensured under these arrangements:

- (a) That they do not lead to the formation of exclusive and discriminatory regional blocs;
 - (b) That they conform to the basic principles of GATT/WTO; and
 - (c) That sufficient consideration is given to the trading and investment interests of third countries, including Japan.
- (4) Japan has not been a party to any arrangements establishing a free-trade area with any other country, nor has it formed any customs union. Japan offers no preferential tariff to any country or region except under the Generalized System of Preferences.

II. FRAMEWORK AND IMPLEMENTATION OF TRADE POLICIES

1. Trade Policy Framework

(1) Relevant domestic laws and orders

The following laws and orders constitute the legal framework for Japan's trade policies: the Foreign Exchange and Foreign Trade Control Law, the Export Trade Control Order, the Import Trade Control Order, the Export and Import Transaction Law, the International Trade Insurance Law, the Customs Law, the Customs Tariff Law and the Temporary Tariff Measures Laws. Of these laws and orders, amendments were made to the Customs Tariff Law, the Export Trade Control Order and the International Trade Insurance Law as described below, but no changes have been made to the remaining laws and orders since the previous review was made.

(a) The Customs Tariff Law

Due to an increasing number of incidents involving guns, the Customs Tariff Law added guns as a category of prohibited imports.

(b) The Export Trade Control Order

For the purpose of maintaining international peace and security, restrictions are placed on exports of the following goods:

- arms and their components;
- items related to weapons of mass destruction: nuclear, chemical and biological weapons;
- items related to missiles as a delivery system of weapons of mass destruction; and
- post-COCOM controlled items.

In the case of such exports, a license from the Ministry of International Trade and Industry is required.

(c) The International Trade Insurance Law

The goal of the International Trade Insurance Law is to establish a system to provide insurance against restrictions on exchange transactions that might arise from foreign trade and other external transactions, as well as for other risks that cannot be covered using ordinary kinds of insurance, thereby helping to promote the sound development of foreign trade and other external transactions.

The trade insurance system is a scheme to provide compensation for losses from (i) restrictions on exchange transactions and other emergency risks and (ii) bankruptcies of trading partners or other credit risks that might develop in exporting, importing, the conduct of intermediary trade and overseas investment, and other external transactions.

This system is operated directly by the Ministry of International Trade and Industry, and its accounting is incorporated in the International Trade Insurance Special Account, separate from the General Account of the Government's budget. In addition to the eight insurance schemes introduced in the previous report, a revision of the International Trade Insurance Law in 1993 included the creation of the Overseas Business Loan Insurance scheme as described below.

Overseas Business Loan Insurance

The Overseas Business Loan Insurance scheme is designed to compensate for losses when Japanese business corporations, which extend loans to incorporated entities in foreign countries that are not under their control for the promotion of overseas undertakings, find it impossible to recover the principal and other claims for provided loans, or the collectable amount of money based on their right of demanding compensation, as a result of emergency risks (imposition of restrictions or prohibition of exchange transactions, outbreaks of war, revolution or civil war, etc.) or credit risks (bankruptcies of borrowers, default of obligations for more than six months, etc.).

(2) Formulation of trade policies

The governmental organizations related to the formulation of trade policies are the Trade Conference, the Ministerial Conference for Economic Measures, the Office of Trade and Investment Ombudsman (OTO), the Councillors' Office on External Affairs of the Cabinet Secretariat, the Economic Planning Agency, the Economic Council, the Ministry of Foreign Affairs, the Ministry of Finance, the Customs Tariff Council, the Ministry of Agriculture, Forestry and Fisheries, the Ministry of International Trade and Industry, and the Fair Trade Commission. The functions of these organizations - all of which were described in the previous report - remain basically unchanged. In this report, the newly created Japan Investment Council, and the organizations whose functions have been altered slightly such as the Ministerial Conference for Economic Measures, the OTO, the Economic Council, the Ministry of Foreign Affairs, and the Ministry of International Trade and Industry, are explained below.

(a) The Japan Investment Council

To further promote investment in Japan, the Government decided at a Cabinet meeting in July 1994 to establish the Japan Investment Council in the Prime Minister's Office, in light of the Outline of External Reform Measures (adopted by the Cabinet in March 1994). The task of this Council is to serve as a liaison and coordinator among relevant government ministries and agencies, in order to gather opinions and requests concerning the improvement of the investment environment and to disseminate information on policy measures related to the promotion of investment from the standpoint of facilitating foreign investment in Japan. With the Prime Minister and the Minister of State for Economic Planning serving as chairman and vice-chairman, respectively, the Council is comprised of 21 Cabinet ministers concerned.

The first meeting of the Council was held in September 1994, and heard directly from representatives of foreign enterprises opinions and requests concerning the promotion of investment in Japan. Furthermore, the first meeting of the Council's Expert Committee on the promotion of investment in Japan, which includes officials of relevant administrative organizations, various non-government members, and foreign expert members, was held in November 1994 to hear opinions and requests concerning the promotion of investment in Japan, as well as to disseminate information on policy measures related to the promotion of investment in Japan.

(b) Ministerial Conference on Economic Measures

The supreme decision-making organ of the Government is the Cabinet; there also exist ministerial conferences of various kinds as its equivalent decision-making organs. Following a change of administration in August 1993, all the existing ministerial conferences were abolished once, and were to be re-instituted in tandem when necessary. From the standpoint of making a comprehensive coordination of economic policies, the Ministerial Conference for Economic Measures was later reestablished in the Cabinet. As was the case before its abolishment, this ministerial conference aims at implementing economic policies effectively and flexibly by responding to domestic and overseas economic situations. It also adopts the "Economic Outlook and Basic Policy Stance on Economic Management" for each fiscal year while making decisions on various comprehensive economic measures and on other fundamental matters of importance in the conduct of economic policies.

Specifically, the conference has hitherto decided on numerous comprehensive economic measures and external economic measures that incorporated wide-ranging policy measures of diverse kinds for the sustainable expansion of the economy, chiefly led by domestic demand, and the rectification of external imbalances. As for measures implemented since 1993, the conference adopted the "New Package of Economic Measures" in April 1993, the "Immediate Economic Measures" in September of that year, and the "Comprehensive Economic Measures" in February 1994. It is customary that the "Economic Outlook and Basic Policy Stance on Economic Management," which is drafted together with the formulation of the national budget each new fiscal year, is made subject to this ministerial conference's approval prior to the Cabinet's approval.

This ministerial conference is presided over by the Minister of State for Economic Planning, and its members are all Cabinet ministers. (In addition, representatives from the concerned ruling parties, the Governor of the Bank of Japan, and the Chairman of the Fair Trade Commission also participate in the conference).

(c) The Office of Trade and Investment Ombudsman (OTO)

Based on the decision by the Ministerial Conference on Economic Measures in January 1982, the deputy-minister-level Office of Trade and Investment Ombudsman (OTO) was established. This office receives and deals with specific complaints concerning market access, such as those related to import procedures, procedures for direct investment in Japan, and procedures for trade in services or government procurement, as well as the facilitation of imports.

In accordance with a Cabinet decision on February 1, 1994, measures were taken to upgrade OTO to its present form. The new OTO is made up of (i) the Office of Market Access with the Prime Minister serving as its chief and relevant Cabinet ministers appointed as its members, and (ii) the Market Access Ombudsman Council, comprised of private-sector experts, which submits reports to the Office of Market Access from an impartial standpoint.

In addition to its conventional task of receiving complaints and dealing with them, the OTO initiated a process to determine necessary policy measures following the Market Access Ombudsman Council's recommendations concerning problems raised by foreign firms and others. In its first report submitted on April 12, 1993, the Council put forth its result of study on a total of 26 issues, which included an improvement of the date-marking system for food products and the easing of regulations governing the activities of foreign lawyers in Japan. In its second report submitted on May 13, 1994, the Council put forth recommendations for a total of 21 items, including the easing of regulations governing the acquisition of drivers' licenses for large-sized two-wheel vehicles and increased flexibility in the completion inspection system of automobiles. The Government has determined policy measures to be taken, taking utmost account of these proposals. The Council is now working on its third report.

(d) The Economic Council

The Economic Council, founded within the Economic Planning Agency, reports on the Long-Term Economic Plan and deliberates on important matters concerning economic policies as requested by the Prime Minister. When necessary, the Council may also report its opinions directly to the Prime Minister.

The regular members (up to 30 persons) of the Economic Council are appointed by the Prime Minister for a two-year term from among various experts such as former bureaucrats and those in the academic, business, labour and media circles. When formulating plans or carrying out follow-up work, numerous special members are appointed, while committees, subcommittees, and study groups are created to conduct studies on main issues of interest. At present, there are 26 Council members.

(Note: The current members were appointed on February 21, 1994, and their tenure is set to expire on February 20, 1996.)

Currently, the Economic Council is proceeding with its deliberations, having set up four committees to discuss Japan's medium- and long-term national tasks: (i) stimulation of the economy by relying on market forces; (ii) the improvement of housing and other areas of the infrastructure related to the lives of citizens, and improvement of the social infrastructure, including the development of human resources and the promotion of basic science; (iii) comprehensive measures to prepare for a society with fewer children and a growing number of older people; and (iv) measures to cope with matters related to the World Trade Organization (WTO) and the world economy including relations with Asia.

(e) Ministry of Foreign Affairs

Given the increasing importance of the service sector in international trade, trade in services was placed on the negotiating table in the Uruguay Round for the first time in the history of the GATT multilateral trade negotiations.

Subsequently, the General Agreement on Trade in Services (GATS) was concluded. In order to deal with these developments, the Office of Trade in Services was set up in the First International Organizations Division, the Economic Affairs Bureau in the course of the Uruguay Round. The office, established within the Ministry of Foreign Affairs, which is, among all the agencies of the Japanese government, charged by law with the authority and responsibility to conclude, interpret and implement trade agreements. This office is in charge of matters concerning trade in services, including the interpretation, the management of operation, and the implementation of GATS. Its principal functions include, inter alia, representing the Government of Japan in the services negotiations and coordinating with the relevant ministries and agencies.

(f) The Ministry of International Trade and Industry

With the progress and conclusion of the Uruguay Round of trade negotiations and the ensuing conclusion of the WTO Agreement, trade agreements have come to play a substantially important role in the nation's trade and industrial policies. Based on this recognition, MITI established in October 1993 the Trade Agreement Administration Division in the International Trade Policy Bureau to reinforce its functions of planning, policy formulation, implementation and examination concerning international trade agreements.

At the same time, MITI created the Office for Trade Policy Review within the Trade Agreement Administration Division for the purpose of studying each country's trade policies and trade-related measures vis-à-vis its observance of international trade agreements.

Furthermore, MITI established the WTO subcommittee within the Industrial Structure Council in order to have the opinions of private enterprises, experts and others outside the Ministry appropriately reflected in the planning and formulation of fundamental trade policies.

2. Implementation of Trade Policies

Changes to Japan's trade policies, made either after the previous review was undertaken or following the consideration of the recent situation, are as follows.

(1) Tariffs

(a) Fundamental stance on tariff policies

In order for the free trading system to be maintained and strengthened, and to contribute to the formation of harmonious external economic relations, Japan considers it important to continuously promote further improvement of foreign access to its markets.

From such a standpoint, Japan actively participated in the successive rounds of GATT negotiations, while implementing a series of tariff reductions by means of an action program for improved market access and other measures.

Consequently, Japan's current tariff level in general is extremely low. Japan is determined, however, to further lower its tariff rates through the steady implementation of the outcomes of the Uruguay Round negotiations.

[Note: The incidence of customs duty as a percentage of import value (total amount of duty collected to total value of imports) stood at 7.3 per cent in FY 1967, prior to the implementation of tariff reductions upon the conclusion of the Kennedy Round. The corresponding figure was 3.4 per cent in FY 1992.]

(b) Procedures for tariff revisions

The administrative work of research into systems, planning and policy formulation related to tariffs is under the jurisdiction of the Ministry of Finance's Customs and Tariff Bureau. By taking into account the requests from each ministry concerned, the Bureau examines price differentials between domestic and overseas markets, the supply-demand situation, the prospects of production rationalization and other factors for each separate trade item. The Finance Minister then asks the Customs Tariff Council to submit a recommendation based on the results of the Bureau's examination.

Through its Research Group, the Customs Tariff Council examines relevant items and reports its conclusion to the General Meeting of the Council for approval. The approved recommendations are then submitted to the Finance Minister.

After careful consideration of the recommendations submitted by the Customs Tariff Council, the Customs and Tariff Bureau of the Ministry of Finance formulates draft revisions of the Customs Tariff Law and the Temporary Tariff Measures Law. Afterwards, these draft revisions are submitted by the Government to the Diet, and the revised laws are put into effect following the deliberations and approval of the Diet.

Generally, temporary tariff rates are made valid for one year; therefore, it is customary to revise the Tariff Law once a year. The newly revised tariff rates become applicable from April 1, when a new fiscal year begins.

(c) Recent measures regarding tariff policies (including revisions other than those of tariff rates)

April, 1993

The institution of the simplified tariff rate scheme for low value import cargo; the reduction of tariff rates on grits for the manufacture of corn flakes and potato flakes; the abolition of the tariff quota scheme for heavy oil; and the extension of tax exemption or reduction schemes including the tax exemption and repayment scheme for crude oil.

April, 1994

The abolition of import duties or the reduction of tariff rates on a total of 11 items, including unrefined sugar, refined sugar, and some automobile parts; the extension of the application period of the emergency tariff adjustment measures concerning beef; the increase in the number of items eligible for the tariff exemption or reduction scheme for re-importation of items processed abroad, the easing of restrictions on overseas processing, and a review of the method of calculating tariff reductions; the extension of the application period of the petroleum-related tax exemption and repayment scheme; and the revision to integrate bonded sheds and bonded warehouses into new bonded warehouses.

(2) Generalized System of Preferences

Japan has been implementing since 1971 the Generalized System of Preferences (GSP) to apply preferential tariff rates on imports from developing countries that are lower than the effective tariff rates applied to imports from developed countries. This is done to assist developing countries increase their exports and export income, thereby promoting their industrialization and economic development. The period of application was extended by 10 years in the FY 1991 revision to March 31, 2001.

(a) GSP beneficiary countries and regions

As of November 1994, a total of 134 countries and 25 regions are beneficiaries of this system.

(b) Items subject to the GSP and preferential tariff rates

- **Agricultural and fishery products (HS Chapter 1-24)**

Items subject to the preferential tariffs number 77 items of fish, crustaceans and others (HS 4-digit basis). The preferential rates of these are 10 per cent to 100 per cent lower than corresponding effective rates.

- **Mining and industrial products (HS Chapter 25-97)**

Almost all items in this category are subject to the GSP, with the exception of 27 items (HS 4-digit basis). The preferential rates are zero in principle; exceptionally, 67 items are subject to preferential rates that are half the effective rate (HS 4-digit basis).

(c) GSP application methods

(i) Agricultural and fishery products (HS Chapter 1-24)

In emergency cases where an application of preferential tariffs could harm domestic industries, an escape clause system is applied to suspend the application by issuing, when necessary, a Cabinet order that designates specific items, exporting countries, and other relevant matters.

(ii) Mining and industrial products (HS Chapter 25-97)

In principle, the escape clause system is applied for these products. However, a specific ceiling quota system has been applied to 125 items. In principle, when the corresponding ceiling quota is exceeded, application of the preferential tariff is suspended.

(d) Special treatment for imported products from the least developed countries

Among the GSP beneficiary countries, those countries designated as the least developed countries (41 countries as of November 1994) by the resolutions of the United Nations General Assembly are, in principle, considered to deserve special benefits. Imports from these countries are entitled to a special treatment by which no duty is charged for products taxable under the preferential tariff rates. Furthermore, the escape clause method is applied to goods from these countries that are subject to the ceiling quota system.

(e) Import procedures for products subject to the GSP

Regarding products for export to Japan that are eligible for preferential tariffs, a "Generalized System of Preferences Certificate of Origin (Form A)" issued by the customs authority or an institution performing a comparable function of the country of origin must be submitted to the customs authority at the time of import declaration.

(f) Import performance of products subject to the GSP (FY 1993)

Of the total value of imports from all GSP beneficiary countries, the amount of imports subject to the GSP was ¥1.50 trillion.

Japan's Imports Eligible for GSP Treatment By Country (Region)
(FY 1993)
(100 million yen)

Country Region	Agricultural products ^a	Industrial and mining products ^b	Total	Share (per cent)
Republic of Korea	379	2,744	3,123	21
People's Republic of China	789	2,022	2,811	19
Taiwan	606	1,894	2,500	17
Brazil	55	731	786	5
Malaysia	267	508	776	5
Thailand	225	544	769	5
Philippines	459	177	636	4
Indonesia	120	515	635	4
Chile	44	241	285	2
Singapore	32	203	235	2
Others (LLDC incl.)	563	1,900	2,462	16
Total	3,539	11,480	15,020	100

a HS Chapter 1-24.

b HS Chapter 25-97.

(3) Tariff quotas

Currently in Japan, the tariff quota system as stipulated in the Temporary Tariff Measures Law is applied to a total of 12 items. A list of the items and their primary and secondary tariff rates are shown below.

Primary tariff rate/Secondary tariff rate

1. Breeding cattle for beef/Free/¥45,000 per head
2. Natural cheese/Free/35 per cent
3. Oats/Free/10 per cent
4. Corn/Free and other rates/whichever is higher, 50 per cent or ¥12 per kg.
5. Malt/Free/¥25 per kg.
6. Molasses for the manufacture of alcohol/Free/25 per cent and other rates
7. Cocoa preparations for the manufacture of chocolate/Free/25 per cent
8. Tomato puree and tomato paste/Free/20 per cent
9. Canned pineapple/Free/30 per cent
10. Partially refined alcohol for alcoholic drinks/Free/17.9 per cent and other rates
11. Leather/15 per cent and other rates/60 per cent
12. Leather shoes/21.6 per cent and other rates/whichever is higher, 60 per cent or ¥4,800 per pair

(4) Quantitative restrictions

(a) For the purpose of ensuring national security, protecting human and others' life and health, enforcing restrictions on the domestic production of agricultural and fishery products, and preserving the country's limited natural resources, and with respect to some items for state trading, Japan implements quantitative restrictions through import quotas based on the Import Trade Control Order.

(b) Japan has hitherto been actively promoting the liberalization of imports. Measures for import liberalization which were implemented in recent years or are scheduled to be implemented are mentioned below.

April 1986: Elimination of quantitative restrictions on four items, including leather and leather shoes

October 1988: Pasta (19.02)

April 1989: Processed cheese (04.06)

July 1989: Tomato ketchup and tomato sauce (21.03)

April 1990: Prepared beef (16.02), prepared pineapple and fruit pulp (20.08), fruit puree and fruit paste (20.07), ice cream (21.05), and grape juice and grape must of an alcoholic strength by volume of more than 0.5 percent and less than 1 percent (22.04, 22.05)

April 1991: Beef (02.01, 02.02, 02.06), oranges (08.05, 08.12)

April 1992: Orange juice (20.09, 22.06, 22.08), coal (27.01)

The scheduled date, April 1995:

Dairy products (04.01, 04.02, 04.03, 04.04, 04.05), dried leguminous vegetables (07.13), wheat and meslin (10.01), barley (10.03), triticale (10.08), wheat flour (11.01), barley flour and triticale flour (11.02 ex), groats, meal and pellets of wheat, barley or triticale (11.03 ex), grains otherwise worked of barley, wheat, or triticale (11.04 ex), starches and inulin (11.08), ground-nuts (12.02), tubers of konnyaku (12.12 ex), food preparations of grains, flour or meal of wheat, triticale or barley, of starch, or of dairy products (19.01 ex, 19.04 ex, 21.06 ex), preparations with a basis of coffee, tea or mate (21.01)

(5) Government procurement

(a) The Government of Japan signed, at Marrakesh on 15 April 1994, the Agreement on Government Procurement subject to ratification. The scope and coverage of the Agreement will be significantly expanded as it stipulates that the Agreement applies to procurement by any contractual means, including any combination of products and services. Agreed Japanese Appendix I to the Agreement covers: (i) all central government agencies including all their internal sub-divisions, independent organs, attached organizations and other organizations and local branch offices provided for in the National Government Organization Law; (ii) all prefectural governments and all designated cities including all internal sub-divisions, attached organizations and branch offices of all their governors or mayors, committees and other organizations provided for in the Local Autonomy Law; and (iii) other 84 entities established on the basis of specific laws, of which 21 entities are covered by the present GATT Agreement on Government Procurement.

(b) With a view to increasing transparent access opportunities for competitive foreign suppliers to Japanese market, the Government adopted, during the past year, unilateral measures, above and beyond GATT requirements, in relation to the procurement by the central government and its related entities of products in general, and products and services of telecommunications and medical technology. In brief, the measures aim at providing procurement information as early as possible before the notice of invitation to tender through such methods as a conference on a planned major procurement at the early stage of a fiscal year, a public notice requesting information on available products and services, a public notice requesting comments on draft specifications, and a notice on use of single tendering to be published prior to the contract award. Overall greatest value methodology will be applied to higher-valued procurements of products and services of telecommunications and medical technology. Furthermore, measures related to construction services which, inter alia, request that only open tendering procedures be used for procurement of covered construction services were also adopted during the past year. It should be noted that the Government has implemented the measures on a non-discriminatory basis maintaining consistency with the GATT Agreement on Government Procurement.

(6) Special duties

Hitherto, Japan has not applied safeguard measures nor imposed countervailing duties, but there have been some cases in recent years pertaining to anti-dumping duties, including one instance where an anti-dumping duty was actually imposed, as mentioned below.

- (a) The case of ferro-silico-manganese produced in China, Norway and South Africa

An application for investigation was filed by the Japan Ferro-Alloy Association on October 8, 1991, and an investigation based on relevant laws was initiated on November 29 of that year. As a result of the investigation, the Government accepted price undertakings offered by two Chinese exporting firms in January 1993, but imposed anti-dumping duties, beginning in February of that year, on ferro-silico-manganese imported from all other Chinese exporters.

- (b) The case of cotton yarn produced in Pakistan

Upon an application filed by the Japan Spinners' Association on December 20, 1993, an investigation based on relevant laws was initiated on February 18, 1994, and an investigative team, comprised of Ministry of Finance and MITI officials, was formed. On August 29 of that year, the Government decided not to take provisional measures unless any substantial change of the situation arises. This decision was published on August 30, 1994; meanwhile, the team is continuing its investigation to reach a final decision.

- (7) Bonded (Hozei) Area system

In 1992, Japan introduced the Integrated Bonded (Hozei) Area system to facilitate imports.

This system is designed to make a comprehensive use of diverse bonding functions, including the storage, manufacture, and exhibition of foreign goods, as well as to simplify customs procedures, in areas where import infrastructure of diverse kinds are concentrated.

At present, the Asia and Pacific Trade Center in Osaka has been in operation as an Integrated Hozei Area since April 1994. A further expansion of the Integrated Bonded Area system in tandem with progress in infrastructure formation at each of the other areas is expected to help facilitate imports.

- (8) Export restrictions (only those changes made since October 1992 are mentioned below)

- (a) Export controls for the maintenance of international peace and security

- Post-COCOM interim regulations (since June 1994)

In accordance with an agreement reached at the High Level Meeting (HLM) in March 1994 to terminate COCOM, until a new arrangement is established to govern post-COCOM export regulations, Japan maintains the ability to control exports of sensitive dual-use goods and technologies based on the Foreign Exchange and Foreign Trade Control Law. Specifically, permission or approval of the Minister of International Trade and Industry is mandatory for all exports of goods and technologies stipulated in Annexes of the Export Trade Control Order and Foreign Exchange Control Order.

- Export regulations pertaining to nuclear-related dual-use equipment, material, and related technologies (since December 1993)
- Export regulations pertaining to biological agents and dual-use biological equipment (since July 1992)

- (b) Implementation of export regulations in accordance with U.N. Security Council resolutions
 - Export regulations on all items to designated areas in Croatia, Bosnia-Herzegovina (UNSC Resolution No. 820) (since May 1993)
 - Export regulations on petroleum-related equipment and materials to Libya (UNSC Resolution No. 883) (since December 1993)
 - Export regulations on all items to Haiti (UNSC Resolutions Nos. 917 and 944) (between May and October 1994)
- (c) Implementation of export regulations in accordance with international treaties, etc.
 - Export regulations on designated chlorofluorocarbons, etc. (Montreal Protocol) (since December 1992)
 - Export regulations on designated halon, etc. (Montreal Protocol) (since August 1993)
 - Export regulations on designated harmful wastes, etc. (Basel Convention, etc.) (since December 1993)
- (d) Repeal of export regulations
 - Special methods of settlement concerning textiles and sundry goods, export regulations on graphite electrodes, ball-bearings, etc. (since July 1993)
 - Export regulations on machine tools to the U.S. and four-wheel drive motor vehicles, etc., to South Africa (since January 1994)
- (e) Abolition of a total of 16 export cartels, including those on metal flatware to all destinations and forklift trucks to the EC
- (9) State trading enterprises

Starting in FY 1995, in accordance with the result of the Uruguay Round negotiations on agriculture, efforts will be made to enhance the transparency of the operation of state trading enterprises that deal with rice, wheat, barley, triticale, dairy products (designated dairy products), and raw silk. Also, improvement measures will be implemented as described below.

- (i) Japan commits to provide access opportunities of these items as specified in its schedule of concessions attached to the Annex of the Marrakesh Protocol.
- (ii) Ceiling figures for mark-ups of concerned import items will be bound.
- (iii) Starting in FY 1995, the ceiling figure for the mark-ups of wheat, barley, triticale, and dairy products (designated dairy products) will be reduced by 15 percent over a six-year period.

III. PROBLEMS IN EXTERNAL MARKETS

(1) Quantitative restrictions

(a) The United States

Regarding quantitative restrictions, Japan's 13-year voluntary export restraints (VERs) on automobiles were eliminated at the end of March 1994, as were those on machine tools toward the end of 1993. At present, all major voluntary measures to curb exports to the United States have been abolished.

The GATT permits exceptional quantitative restrictions for reasons of safeguarding national security. However, there exists a possibility that the national security provision (Section 232 of the U.S. Trade Expansion Act of 1962) is used arbitrarily for the protection of domestic industry, due partly to the vague criteria for its application. If so, this would constitute a violation of Article XI of the GATT.

In addition, certain import and export regulations exist which cannot be recognized as measures to preserve limited natural resources, considered justifiable under the GATT.

(b) The European Union

The EU abolished in March 1994 all of its discriminatory quantitative restrictions targeting Japanese exports; until then, these restrictions had been a symbolic problem in the field of quantitative restrictions. As for problems pertaining to the requests for voluntary export restraints, VERs for the export of forklifts were terminated in December 1994, while a monitoring system for EU-bound auto exports (passenger cars, off-road vehicles, light commercial vehicles and light trucks), instituted in 1993, is still in effect.

(c) The Republic of Korea

The Republic of Korea still employs a "source diversification system for specific imports" that practically targets Japanese exports. This system clearly violates the GATT's general prohibition of quantitative restrictions, as well as its principle of non-discriminatory application of quantitative restrictions used in exceptional circumstances.

(d) Canada

Canada still maintains export restrictions on logs for the purpose of protecting its domestic industry.

(e) Developing countries in Asia

Indonesia currently imposes import restrictions on a large number of mining and manufacturing goods; it also charges a high export duty on logs, which constitutes an actual export restriction designed to foster the domestic wood processing industry. Malaysia also imposes import restrictions on a large number of mining and manufacturing goods, besides restricting log exports to foster the domestic wood processing industry.

(2) Anti-dumping measures and countervailing measures

The United States and the European Union

Japan is of the view that the U.S. and the EU made necessary amendments to their respective anti-dumping laws in accordance with the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

Japan considers that the discreet application of those laws is very important and that it must be in conformity with the letter and spirit of the Agreement. Therefore, it is the intention of Japan to watch their actual application carefully.

As for the circumvention of anti-dumping duties, it is agreed to be discussed at the Committee on Anti-dumping Practices under the WTO. The U.S. and the EU, however, maintain the anti-circumvention provisions with some amendments. Japan will closely monitor the application of the provisions.

(3) Intellectual property protection systems

Developing countries in Asia

In many developing countries in Asia, steady progress has been made of late to provide statutory protection for intellectual property rights, but there remain many tasks that should be addressed regarding the enforcement of these systems.

(4) Government procurement

(a) The United States

Procurements by state and local governments account for about 50 percent of the United States' overall government procurements. Under such circumstances, it remains to be a problem that the federal and state "Buy American" laws, as well as the application of similar measures to treat American-made products preferentially, which are not governed by the Agreement on Government Procurement, are discriminatory in content against foreign products.

Furthermore, the concept of "national security" exceptions is ambiguous, and there is a fear that its arbitrary use may unfairly restrict foreign firms' access to the U.S. government procurement market.

(b) European Union

The EU discriminates against foreign suppliers in four public procurement sectors (water, energy, transportation, and telecommunications).

(c) Australia

Australia maintains the so-called "offset" system which requires companies to achieve a set target of total exports and R&D investment within a fixed period, depending on their annual sales of information equipment to the government.

(d) Canada

Canadian provinces continue to maintain policies which give preferential treatment to provincial or Canadian-made goods.

(5) Trade-related investment measures

(a) The Republic of Korea

Under the "source diversification system for specific imports," there exists the equivalent of local-content requirements (an obligation to use Korean parts, etc.).

(b) Developing countries in Asia

Local-content requirements exist in Indonesia, Malaysia, and Thailand. In Malaysia, for instance, local-content requirements are made a precondition for receiving state subsidies.

(6) Tariffs

The United States

The arbitrary application of new tariff classifications for multipurpose vehicles amounts to be a de facto raise in the tariff rate with no recourse to the formal procedures under the GATT, and is therefore an overt violation of GATT Article II.

(7) Rules of origin and standards and certification systems

(a) The United States

U.S. rules of origin substantially lack clarity and predictability. In addition, there has arisen the potential for importers to face discriminatory treatment in the wake of the enforcement of the Automobile Labelling Act.

(b) European Union

The EU's arbitrary approach to administering rules of origin remains a problem. This is exemplified by the use of "negative lists" concerning the rules of origin for photocopiers, and by the change of rules of origin for semiconductors to protect the domestic industry.

(c) The Republic of Korea

Marking requirements regarding origin, based on the Administrative Regulation on the Rules of Origin (issued by the Tariff Agency in July 1991), are becoming excessive burdens for foreign corporations.

(8) Unilateral measures

The United States

The United States has a tendency to resort to unilateral measures, like the reinstitution of "Super 301" of the Trade Act of 1988, as well as to call for trade concessions, such as the implementation of a numerical target-based trade policy, which ignore market mechanism and could lead to managed trade.