Background Note by the Secretariat

Introduction

1. The present paper represents an attempt to bring together relevant information available on the activities of GATT in the field of quantitative restrictions including embargoes and export restraints.

2. For the purposes of this paper, quantitative restrictions are considered to take the forms of quotas, export or import licences, embargoes, State trading, export restraints or seasonal restrictions. These measures may be imposed for various purposes such as protection of domestic industries, emergency situations, balance-of-payments difficulties, security interests, existing trade agreement provisions, etc. This paper, however, does not deal with licensing procedures which have already been discussed in another context (COM.IND/W/82).

3. This paper is divided into the following sections:

I. GATT provisions and procedures:
   (a) quantitative restrictions
   (b) export restraints.

II. Available data on quantitative restrictions, embargoes and export restraints.

III. Proposed solutions.

I. GATT Provisions and Procedures

(a) Quantitative restrictions

(i) Basic rule

4. The basic obligation against using quantitative restrictions is contained in paragraph 1 of Article XI which lays down that "No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained" on imports or exports.
5. An interpretative note to this Article stipulates that the terms "import restrictions" or "export restrictions" include restrictions made effective through State-trading operations.

6. During the last World War and in the years just after, nearly all countries operated vast systems of quantitative restrictions, which were the rule of the time for a wide range of products, mainly for balance-of-payments and security reasons. In the following years notable progress was made towards the elimination of restrictions applied under Article XII. As the dollar shortage eased, restrictions were removed. However, certain hard-core restrictions remained, even where no general disequilibrium in external payments created a "balance-of-payments difficulty". The CONTRACTING PARTIES attempted to deal with them through Interim Decisions as of March 1955 (see "hard-core waivers" in Annex 2 page 1\textsuperscript{1}). Many such restrictions, maintained without the cover of a justification in GATT terms, were associated with the inability of the major trading countries to find a mutually acceptable way of limiting agricultural restrictions. In 1960\textsuperscript{2} the best procedure that could be devised as a first step to keep track of the situation was to agree that each country would notify those of its restrictions which it considered to be inconsistent with the provisions of GATT. Following that decision some seventeen developed countries notified restrictions between 1960 and 1970. In 1967, New Zealand made a proposal (L/3084) whereby countries maintaining restrictions should set a target date for terminating all residuals or obtain waivers under GATT or submit a programme for their removal. Further discussions took place at the twenty-fifth session (1968).

7. The following year, the Director-General made a proposal which later led to the establishment in January 1970 by the Council\textsuperscript{3} of a Joint Working Group on Import Restrictions. This Group established a notification procedure for some eighteen developed contracting parties. On the basis of the notifications made by those contracting parties to the Group, a Consolidated Table was compiled.\textsuperscript{4} It is being updated every year by the notifying countries. These restrictions include quotas (bilateral and global), embargoes, State trading, automatic, liberal and discretionary licences, export restraints, minimum price requirements and seasonal restrictions. In terms of the number of notifications, they represent at least 20 per cent of the non-tariff barriers notified for inclusion in the

\textsuperscript{1}Protocol amending the Preamble and Parts II and III. The same note also applies to Articles XII, XIII, XIV, XVIII.

\textsuperscript{2}BISD, 9th Supplement, page 19.

\textsuperscript{3}L/3260 and C/M/60.

\textsuperscript{4}COM.IND/W/67, COM.G/W/74 and L/3391/Rev.1.
Inventory. They affect imports from one or more contracting parties into eighteen developed countries accounting for nearly three quarters of world trade. The table shows that many of the countries covered still have quantitative restrictions on a wide range of products; in some cases the products affected are almost exclusively agricultural. The table includes both restrictions justifiable under GATT provisions and those which are not.

8. The Joint Working Group held consultations with the eighteen contracting parties concerned in the course of 1970 and submitted a report on these consultations to the Council, contained in L/3391/Rev.1. On 6 June 1971, the Council agreed, inter alia, that the Joint Working Group should continue its work, that the data assembled by the Group should be kept up to date and that the Group would carry out its review annually or every second year. (C/M/70)

9. As to residuals affecting particularly developing countries, the Committee on Trade and Development set up in 1965 "a Group on Residual Restrictions to examine the remaining import restrictions on products of export interest to the developing countries and to explore the possibility of their early removal". (BISD 14th Supplement page 132). The Group has met periodically since, carrying out product-by-product examinations on priority items.

(ii) Exceptions

10. Firstly, paragraph 2 of Article XI itself contains provisions for exceptions to the basic rule. Restrictions may be imposed (a) to prevent or relieve critical shortages of foodstuffs or other essential commodities; (b) in connexion with the enforcement of grading or marketing standards, and (c) if they are "necessary" to enforce governmental measures, e.g. domestic marketing or production restriction programmes in the agricultural and fishing sectors, or to remove temporary surpluses. The last paragraph sets out, however, the conditions to be met for restrictions applied under 2(c), whereby contracting parties have the two obligations of giving detailed public notice of the total quantity or value of the product permitted to be imported and of not reducing the total of imports relative to the total of domestic production.

11. Articles XII and XVIII

Articles XII and XVIII, however, provide more significant exceptions to the basic rule. A contracting party may restrict the quantity or value of imports to "safeguard its external financial position and its balance of payments".

12. Articles XII and XVIII are, in substance, much the same; the former is addressed to developed countries and lays down strict limitations and criteria for the application of import restrictions and subjects the restricting country to a yearly consultation with the CONTRACTING PARTIES and the IMF on its balance-of-payments situation.
13. Article XVIII sets out special provisions for developing countries, with somewhat less stringent limitations and criteria, and calls for a consultation every two years instead of yearly.

14. In both cases quantitative restrictions, if applied, must be used on a non-discriminatory basis, unless there is justification for differentiating currencies on specified monetary grounds.

15. Article XV of the Agreement calls for co-ordinated policy in exchange questions within the jurisdiction of the IMF, on the one hand, and in questions of quantitative restrictions and other trade measures within the jurisdiction of the CONTRACTING PARTIES on the other hand.

16. Following the entry into force in 1957 of the revised text of Articles XII and XVIII, adopted in 1955, a review of all import restrictions maintained for balance-of-payments reasons was made in 1958, as required under Articles XII:4(b) and XVIII:12(b). This has been followed by periodic consultations under the same provisions until the present day with contracting parties which continue to apply balance-of-payments restrictions.

17. The procedures governing these consultations are spelled out in detail in BISD, 7th Supplement for new or substantial intensification of import restrictions (Articles XII:4(a) and XVIII:12(a)) and in BISD, 18th Supplement, pages 48-53, for regular consultations (Articles XII:4(b) and XVIII:12(b)). In December 1972 modifications were introduced in the procedures for regular consultations on balance-of-payments restrictions with developing countries (Article XVIII:12(b)), with a view to reducing the administrative burden to these countries. On the other hand, the same Council Decision calls for notification of restrictions by contracting parties which hitherto were not required to specify whether their restrictions were covered by particular GATT provisions.

The procedures described above have the following coverage in 1973:

- Article XII - Four contracting parties consulting annually
- Article XVIII:B - Fourteen contracting parties consulting bi-annually
- Undefined - Three contracting parties consulting annually and bi-annually

In addition, some twenty-six contracting parties have been invited, further to Council's Decision, to state their position vis-à-vis Article XVIII:B.

18. Article XIX prescribes when emergency action in the form of the suspension, withdrawal or modification of a concession can be taken on a non-discriminatory basis against imports causing or threatening serious injury to domestic producers, thus permitting a further exception to the general rule. Paragraph 2 of the

---

1Document L/3772/Rev.1.
Article lays down that consultations must be held before or immediately after taking the above action, and paragraph 3 permits action by affected contracting parties if agreement is not reached in these consultations. About one third (21) of Article XIX cases have led to the imposition of quantitative restrictions. A tabular analysis of these cases is given in Annex 1. Of these 21, 10 actions are still in force, representing more than three quarters of total actions in force.

19. Articles XX and XXI provide respectively for general and security exceptions to the agreement and thus to Article XI:1. Most of the general exceptions are of the kind which have customarily been included in international commercial agreements for many years. These Articles have been invoked in only a few cases.

20. Article XVII, which deals with State-trading enterprises, also provides a basis for applying quantitative restrictions. This is confirmed by the Interpretative Note to Articles XI, XII, XIII, XIV and XVIII, which says "throughout these Articles the terms "import restrictions" or "export restrictions" include restrictions made effective through State-trading operations" (Analytical Index, pages 59 and 97). Paragraph 4 of Article XVII requires that contracting parties which maintain State-trading enterprises shall notify the CONTRACTING PARTIES of the products imported into or exported from their territories by such enterprises. The most recent procedure for notifications is contained in BISD, 11th Supplement, pages 58-59. Notifications are made through a questionnaire (BISD, 9th Supplement, page 134).

21. Article XXV, which deals with joint action by the CONTRACTING PARTIES, provides a further exception to the basic rule in Article XI:1. "Paragraph 5 allows the CONTRACTING PARTIES to waive any obligations imposed upon the contracting parties by the Agreement in exceptional circumstances not provided for in the Agreement, and places no limitations on the exercise of the right" (Analytical Index, page 142, 7(b)). Among others, waivers under paragraph 5 have been granted from the obligations under Articles XI and XV (Analytical Index, pages 60 and 82). Waivers to Article XI are listed in Annex 2.

22. Another provision which is relevant in any compilation of exceptions to Article XI is Article XXXV, which deals with the non-application of the Agreement between particular contracting parties.

23. Part IV of the Agreement, and more particularly Article XXXVII, can be invoked to justify exceptions to Article XI:1. Paragraph 5 of Article XXXVII provides for "full and prompt opportunity for consultations under the normal procedures of the Agreement with respect to any matter or difficulty which may arise". (See also paragraphs 11 to 18 above.)

1 The complete list of Article XIX cases appears in COM.IND/W/88, Rev.1, Annex B.
24. Finally, Article XIII provides that whenever restrictions are applied which are permitted under GATT they should be applied on a non-discriminatory basis. In exceptional circumstances provided for in Article XIV, Article XIII provisions can be waived.

25. One of the problems which arise in connexion with Article XIII is that of the discriminatory allocation of quotas within licensing arrangements. The distribution of global quotas among supplying countries on the basis of imports during the previous representative period in accordance with paragraph 2(d) of Article XIII seems to pose special problems to new exporting countries. It has been suggested that this criterion be revised to ensure an adequate share of the quotas to the new entrant and that where imports were subject to quotas, such quotas should not apply to imports of products intended for re-export. (COM.IND/W/82, Note by the Chairman, paragraph 8.)

(iii) GATT procedures to deal with existing quantitative restrictions

26. Some of the procedures have already been dealt with under the relevant Articles of GATT in the previous sections on exceptions. This is the case of the notification and consultation procedures under the Articles mentioned above, namely XI, XII, XVIII and XIX. Apart from the special provisions in these Articles, the two main Articles of the Agreement which provide for joint action regarding quantitative restrictions are Articles XXII and XXIII. Article XXII establishes the formal basis for consultations and the obligation for a member to give sympathetic consideration to representations from another member. Article XXIII for its part sets orderly procedures (Panel Procedures) for the settlement of disputes regarding nullification or impairment of benefits.

27. In 1958, the CONTRACTING PARTIES adopted procedures under Article XXII on questions affecting the interests of a number of contracting parties. Details of these can be found in BISD, 7th Supplement, page 24.

28. In 1960, the CONTRACTING PARTIES adopted procedures for dealing with import restrictions which are being applied by contracting parties contrary to the provisions of the GATT and without having obtained the authorization of the CONTRACTING PARTIES. The procedures provide for consultations under paragraphs 1 and 2 of Article XXII (BISD, 9th Supplement, page 19). If consultations held under paragraph 1 of Article XXII do not lead to a satisfactory solution, any of the parties to the consultations may request that consultations be carried out pursuant to paragraph 2 of Article XXII. Alternatively, a country whose interests are affected may resort to paragraph 2 of Article XXIII, it being understood that a consultation held under paragraph 1 of Article XXII would be considered by the CONTRACTING PARTIES as fulfilling the conditions of paragraph 1 of Article XXIII. A list of the consultations under XXII:2 and XXIII is given in Analytical Index, page 123.
29. Procedures to be followed in the event of consultations between a less-developed and a developed contracting party not leading to a satisfactory settlement were the subject of a Decision of 5 April 1966 (Analytical Index, page 130). The Decision embodies agreement on "procedures for more speedy and efficient use of the provisions of Article XXIII by less-developed contracting parties".

30. In addition to the procedures in the Articles above, one example of restrictions being justified is the Protocol of accession of Switzerland, under paragraph 4 of which (BISD, 14th Supplement, page 8) Switzerland reserves its position with regard to the application of the provisions of Article XI of the General Agreement in respect of certain products. The paragraph provides for annual reports, as well as a thorough review of the application of the provisions of this paragraph every three years. The protocols of provisional application provide another example of possible exceptions.

31. In recent years developing countries invoking Part IV of the General Agreement have asked for the removal of those restrictions, legal or not, which bear on products of export interest to them. Progress has been limited by the fact that other developed countries are often major suppliers of the same products, or by the fact that the need for restrictions has proved to be rooted in larger agricultural or textile policies. Some work has been carried out on quantitative restrictions affecting the above products in the Group on Residual Restrictions and in the Group of Three.

32. In the textile sector, the Long-Term Arrangement on Trade in Cotton Textiles has provided, since October 1962, a framework for notification of and consultations on quantitative restrictions applied to imports of cotton textiles by member countries. The Committee on Cotton Textiles has held regular meetings when these restrictions have been reviewed. In June 1972, a Working Party on Trade in Textiles was created. A review of the situation of the textile trade during the Sixties is contained in the Report of the Working Party (L/3797 and add.1 and 2).

(b) Export restraints

33. Although the CONTRACTING PARTIES have never provided an interpretation of export restraints under GATT, export restraints are generally regarded as a trade restrictive measure of the same character and having similar effects as quantitative restrictions (L/3496, page 71, paragraph 26). This is confirmed in the 1962 Interim Report on Residual Import Restrictions (see BISD, 11th Supplement, page 208) which defined quantitative restrictions as including restrictions applied by any other devices than by quotas, licensing or embargoes.

34. Export restraints, moreover, are referred to specifically in the Long-Term Arrangement on Cotton Textiles (BISD, 11th Supplement, page 25). Indeed, Article 3 provides for restraint actions in order to avoid disruptive effects on particular

1BISD, 11th Supplement, page 25.
products in individual import markets. It makes it possible for those countries which do not apply import restrictions to take action or to cause action to be taken by the exporting country when market disruption exists or is threatened. Therefore Article 3 of the Long-Term Arrangement provides an exception to Article X:1 by "legalizing" the use of export restraints in specific cases. The safeguard aspects of the provisions of this Arrangement are discussed thoroughly in COM.IND/W/88/Rev.1, paragraphs 20-25.

35. Export restraints are among the notifications which have been made to the Joint Working Group on Import Restrictions. There has been, in the 60's and 70's, a discernible increase in the recourse to this measure. Its most noticeable use has been made in the textile and clothing sectors both within the context of the Long-Term Arrangement and in bilateral agreements. This is amply illustrated in the recent Textile Study prepared by GATT. But other products have been affected as well, such as BTN items 69.08 (glazed tiles), 69.11, 12, 13 (tableware), 70.10 (bottles), 85.21 (thermionic tubes). There is also a growing number of purely inter-industry agreements which provide for the quantitative limitation of exports. As for other quantitative restrictions, export restraints are applied in some cases on large numbers of products, for either large or small numbers of exporting countries; in other cases to a narrow range of products for either many or only a few countries. These restraints are normally applied temporarily, for one year in general, but in numerous cases they have been renewed and in some cases repeatedly.

36. Opinions vary extensively as to effects of export restraints. Countries against which notifications have been made maintain that "export restraints are more favourable to exporting countries than alternative trade restrictive measures which would be applied otherwise. Levels of restrictions are known as opposed to import quotas which are not always published. They also maintain that imports are generally higher under these arrangements and that the regular inherent consultations tended to speed up liberalization". (L/3496, page 71)

37. On the other hand, restraining countries maintain that "the consultations are not necessarily carried out on a mutually advantageous basis, and that because restraints are applied on a discriminatory basis they might, in certain cases, have more harmful aspects than quantitative restrictions applied on a global basis". (L/3496, page 71)

1COM.IND/W/67/Add.1; COM.IND/W/67/COM.AG/W/74.

II. Data Available on Quantitative Restrictions, Embargoes and Export Restraints

38. As referred to above in paragraph 7, the most comprehensive source of information on restrictions, legal or illegal, currently operated by eighteen developed market-economy countries is contained in the consolidated table of the Joint Working Group on Import Restrictions and its supplementary notes, which explain the type, scope, justification and liberalization prospects of these restrictions, and also identifies those restrictions affecting developing countries particularly. Corresponding notification sheets are also available. Both the table and the sheets are brought up to date annually on the basis of notifications made by members of the Group. The accompanying sheets provide additional data on each of the restrictions including the reasons for their maintenance, proposals for their removal and comments by countries affected by them.

39. As regards the restrictions which are applied for balance-of-payments reasons, useful information can be found in the background papers prepared for individual consultations (BOP series).

40. The recent Textile Study (document L/3797 and Addenda) also contains valuable information on import restrictions in the textile and clothing sectors.

41. An earlier, but nevertheless useful, source is also available in the Inventory of Non-Tariff Barriers. Part IV of this Inventory contains more than 100 notifications on quantitative restrictions and export restraints made by affected contracting parties in the context of the Non-Tariff Barrier exercise. The Inventory covers in principle all countries i.e. it is not restricted to developed countries.

III. Proposed Solutions

42. A number of possible solutions to the problem of quantitative restrictions and export restraints have been put forward and discussed in various contexts. In GATT, Working Group 4, the Joint Working Group on Import Restrictions, the Group on Residual Restrictions, and the Group of Three, have, on occasion, examined proposals to this effect. So has the LTA group of countries.

43. In the following paragraphs a summary of the main proposals made in Working Group 4 and the Joint Working Group for a solution is given. This summary, prepared by the GATT secretariat, is contained in document L/3496. The solutions themselves, as discussed in Working Group 4, are attached in annex 3.

---

1 COM.IND/W/67/COM. AG/W/74
2 COM.IND/W/67/Add.1
According to the summary therefore the solutions for quantitative restrictions would include:

(a) An overall programme for elimination of quantitative restrictions of all types maintained by developed countries, whether or not consistent with the GATT, and a target date for removal with the following elements:

(i) Special attention to be given to discriminatory restrictions, restrictions inconsistent with GATT and restrictions of special importance to developing countries.

(ii) A standstill on quantitative restrictions.

(iii) A plan and schedule for removal of a maximum proportion of restrictions maintained by countries not invoking Article XII or XVIII:B.

(iv) For restrictions included in the programme, progressive quota increases, and introduction of imports for embargo products.

(v) Limited extensions of time for maintenance of restrictions justified on social considerations.

(vi) Restrictions not scheduled for removal under the programme to be examined for consistency with GATT and to be subject, if not consistent, to appropriate action under the General Agreement.

(b) An overall gradual liberalization and elimination of quantitative restrictions by developed countries in step with progress of the CONTRACTING PARTIES in their general programme of trade expansion; contributions by an individual contracting party would be proportionate to the scope of its quantitative restrictions of all types.

(c) A solution, similar to that in (a) above, but directed exclusively to illegal import restrictions. Elimination of legal restrictions to be dealt with in negotiations.

(d) A sectoral or commodity approach, focussing on obtaining concerted action in sensitive sectors.

45. For discriminatory restrictions, under bilateral agreements, proposals have been made towards:

(a) Elimination of restrictions imposed pursuant to bilateral agreements (or at least agreements by developed countries) in conjunction with general action on quantitative restrictions.
(b) Interpretative Note or declaration prohibiting restrictive or discriminatory bilateral agreements, with a target time-limit of three years for termination of existing agreements. Consultations with the CONTRACTING PARTIES concerning agreements maintained. Notification of all bilateral agreements of a discriminatory nature by an early date, avoiding duplication with existing notification requirements.

46. Finally, for export restraints the proposals include:

(a) The inclusion of removal of export restraints in general solution adopted for quantitative restrictions.

(b) Notifications to GATT and multilateral consultation procedures to include such restraints.
ANNEX I

Tabular Analysis of Article XIX Cases Having Lead to the Imposition of Quantitative Restrictions

1. Actions terminated

<table>
<thead>
<tr>
<th>Contracting Party</th>
<th>Product</th>
<th>Date</th>
<th>Prior notification/Consultation</th>
<th>Compensation</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Antibiotics</td>
<td>3 Aug. 1962</td>
<td>4 June 1963</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Casual footwear</td>
<td>1 Apr. 1959</td>
<td>20 May 1960</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Copper brass</td>
<td>4 March 1965</td>
<td>1 Sept. 1965</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>sheet and strip</td>
<td>May 1960</td>
<td>17 July 1971</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Motor mowers</td>
<td>Jan. 1966</td>
<td>1 Jan. 1969</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Polyethylene and polypropylene, twine, cordage, rope and cable</td>
<td>27 Feb. 1958</td>
<td>15 May 1958</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Printed cotton textiles</td>
<td>9 July 1962</td>
<td>11 Jan. 1964</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Timber</td>
<td>Feb. 1964</td>
<td>9 Mar. 1964</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Chicken eggs</td>
<td>13 Nov. 1967</td>
<td>1 Jan. 1968</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Matches</td>
<td>5 Nov. 1962</td>
<td>28 Feb. 1964</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Cotton and rayon piece goods</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 1. Actions terminated (cont'd)

<table>
<thead>
<tr>
<th>Contracting party</th>
<th>Product</th>
<th>Date Introduced</th>
<th>Terminated</th>
<th>Prior notification/Consultation</th>
<th>Compensation</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>Lead and zinc</td>
<td>1 Oct. 1958</td>
<td>22 Oct. and Nov. 1965</td>
<td>Yes</td>
<td>No</td>
<td>L/819, L/2439</td>
</tr>
</tbody>
</table>

### 2. Actions still in force

<table>
<thead>
<tr>
<th>Country</th>
<th>Product</th>
<th>Date</th>
<th>Prior notification/Consultation</th>
<th>Compensation</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Used 4 wheel-drive vehicles</td>
<td>21 Apr. 1967</td>
<td>No</td>
<td>No</td>
<td>L/2787</td>
</tr>
<tr>
<td></td>
<td>Knitted coats</td>
<td>19 Dec. 1967</td>
<td>No</td>
<td>No</td>
<td>L/2957</td>
</tr>
<tr>
<td></td>
<td>and the like</td>
<td></td>
<td>Yes</td>
<td>No</td>
<td>L/3217</td>
</tr>
<tr>
<td></td>
<td>Knitted shirts</td>
<td>1969</td>
<td>No</td>
<td>No</td>
<td>L/3400</td>
</tr>
<tr>
<td>Canada</td>
<td>Gasoline</td>
<td>7 May 1970</td>
<td>No</td>
<td>No</td>
<td>L/3402</td>
</tr>
<tr>
<td></td>
<td>Woven fabric shirts</td>
<td>3 June 1970</td>
<td>No</td>
<td>No</td>
<td>L/3000</td>
</tr>
<tr>
<td>France</td>
<td>Horse meat</td>
<td>17 March 1968</td>
<td>No</td>
<td>No</td>
<td>L/355</td>
</tr>
<tr>
<td></td>
<td>products</td>
<td></td>
<td></td>
<td></td>
<td>L/2521</td>
</tr>
<tr>
<td></td>
<td>Petroleum and shale oils</td>
<td>10 Dec. 1964</td>
<td>No</td>
<td>No</td>
<td>L/3231</td>
</tr>
<tr>
<td>Italy</td>
<td>Raw silk</td>
<td>19 May 1969</td>
<td>No</td>
<td>No</td>
<td>L/1781</td>
</tr>
<tr>
<td>Nigeria</td>
<td>Cement</td>
<td>14 Dec. 1961</td>
<td>No</td>
<td>No</td>
<td>L/1781</td>
</tr>
</tbody>
</table>
ANNEX 2

Waivers Granted Under the Provisions of Paragraph 5 of Article XXV

<table>
<thead>
<tr>
<th>Country</th>
<th>Description</th>
<th>Paragraph</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium</td>
<td>(Import restrictions on certain agricultural products during a period of seven years)</td>
<td>45/22</td>
</tr>
<tr>
<td>Cuba</td>
<td>(In connexion with the renegotiation of tariff concessions)</td>
<td>65/27</td>
</tr>
<tr>
<td>European Coal and Steel Community</td>
<td>(Import restrictions on coal and steel products during the Community's transitional period)</td>
<td>15/17</td>
</tr>
<tr>
<td>Germany</td>
<td>(Import restrictions on certain agricultural and industrial products during a period of three years)</td>
<td>85/31</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>(Import restrictions on certain agricultural products)</td>
<td>45/27</td>
</tr>
<tr>
<td>United States</td>
<td>(Import restrictions imposed under Section 22 of the agricultural adjustment act)</td>
<td>35/32</td>
</tr>
<tr>
<td>&quot;Hard-core&quot; waiver</td>
<td>This waiver enabled the granting of waivers under certain terms and conditions, to individual contracting parties by a majority of the votes cast, rather than by the usual two thirds, to permit the maintenance of import restrictions when such contracting parties were faced with problems in eliminating restrictions maintained during a period of balance-of-payments difficulties. The validity of this Decision was extended on five occasions until 31 December 1962; it was allowed to expire at the twentieth session of the CONTRACTING PARTIES.</td>
<td>35/38 65/32 75/33 85/27 95/35 105/35 SR.20/7</td>
</tr>
</tbody>
</table>

1Waiver granted in accordance with procedures, terms and conditions of the "hard-core" waiver.

2Only Belgium resorted to the provisions of this waiver.
ANNEX 3

(Excerpts from document L/3496, pages 65-69 regarding proposals for solutions)

1. "The following proposal was made by one delegation:

(1) The prompt elimination of all illegal trade measures.

(2) Where the prompt removal of illegal trade measures is not possible, the gradual relaxation of these measures according to a schedule so that they are completely eliminated by 1 January 1972.

(3) Countries maintaining illegal restrictions after 1 January 1972 would be required to:

   (a) seek waivers of their GATT obligations, or

   (b) pay appropriate compensation.

(4) Countries obtaining waivers would nevertheless be subject, as is customary, to the provisions of Article XXIII.

This proposal received the support of some delegations.

2. Some delegations noted that this proposal was substantially the same as that made earlier by New Zealand. The debate on the earlier proposal had shown that for a variety of reasons a proposal to remove illegal restrictions as a priority matter was somewhat unrealistic and even inequitable. Whether a restriction was or was not "legal" in GATT terms was to some extent merely a historical accident. Furthermore, if that approach was adopted it was beyond doubt that the contracting parties would exercise much ingenuity to produce legal justifications for more and more of the restrictions in force, with resulting impairment of the force of GATT's provisions and increasing uncertainty as to which restrictions would be included in such a proposal. There would also be a tendency to shift to restrictions of other kinds, including export restraints and unbinding of tariff rates, which might be at least as harmful to trade. Several delegations also pointed to the large number of discriminatory export restraints which they regarded as disguised import restrictions at least as illegal as any others, and maintained that such restrictions should be included in the possible solution.

3. Most delegations expressed a preference for a more overall approach towards liberalization which would cover all quantitative restrictions, whatever their form, both legal and illegal. All countries agreed in principle that quantitative restrictions should be eliminated.
4. The delegations which favoured the proposal outlined in paragraph 1 covering both illegal quantitative restrictions and other illegal trade measures, regarded this approach as the best one for dealing with the problem of quantitative restrictions. These members indicated that while, in their view, illegal restrictions should be removed unilaterally, the elimination of restrictions covered by the protocols of provisional application should be considered in the context of negotiations.

5. During the discussion a proposal representing a synthesis of various comments made, for a programme to relax and remove restrictions, emerged. This proposal was supported by a large number of delegations. Under this proposal, all developed countries would adopt a programme to phase out their restrictions on industrial products along the following lines:

(1) The programme should include all types of quantitative restriction, whether imposed unilaterally or pursuant to international agreements, whether applicable to goods of all or only specified countries, and whether applied through quotas, export restraints or licensing. Special attention should be given to priority elimination of discriminatory restrictions, restrictions clearly inconsistent with GATT and to the removal of restrictions on industrial products, raw or processed, of which developing countries are important suppliers to world markets.

(2) Effective at latest from the time when the programme was decided upon, new quantitative restrictions or intensification of existing restrictions should not be introduced.

(3) A plan and schedule for removal of restrictions on industrial products should be agreed among the contracting parties not invoking Article XII or XVIII:B, envisaging the elimination by a target date of a maximum proportion of restrictions of trade significance maintained by each, and taking into account possibilities of arriving at agreements on particular products or sectors. Such agreements might be subject to conditions as to its entry into effect such as progress in other aspects of the general programme of the CONTRACTING PARTIES or the extent of acceptance by contracting parties.

(4) The programme would envisage:

(a) Quota increases effective in stages, keyed either to domestic production of restricted goods or to amounts of the restricted products imported in past years, or tied to development of the internal market, culminating in liberalization by the target date.

(b) At least token quantities of imports of goods heretofore embargoed, with increases in quantities permitted to be imported up to the date of final liberalization.
(c) For difficult cases, including those involving significant domestic social conditions, a limited extension of time beyond the general target date for completion of the liberalization process subject to a satisfactory justification, in yearly consultations beyond the target date, or progress towards removal of restrictions, including a showing of adequate efforts to assist a domestic reallocation of resources which would obviate the need for the restriction.

(d) An examination of "social" reasons for maintaining restrictions which may be common to a number of countries as a means of hastening their final liberalization.

(5) Any restrictions not included in the programme outlined above would be examined by the CONTRACTING PARTIES within a year of the start of the programme to determine whether they were agreed to be consistent with a strict interpretation of one of the substantive provisions of GATT authorizing maintenance of quantitative restrictions (e.g. Articles XIX, XX, XXI).

(6) Thereafter, any restrictions not included in the programme of relaxation and elimination and not found to be consistent with GATT, whether or not now enjoying some form of legal cover, would be the subject of consultations with the CONTRACTING PARTIES at yearly intervals on the understanding that such restrictions remained subject to proceedings under Article XXIII.

6. Some delegations favoured another general approach covering all quantitative restrictions, legal and illegal alike, including those covered by waivers or by the special provisions of protocols of accession, such as the provisional application clause, or by recourse to Article XXXV or to other similar circumstantial provisions. This approach would cover not only import restrictions but also other quantitative restrictions, whether applied by direct or indirect methods, such as self-restraint. This general approach would be directed towards the gradual liberalization and the progressive elimination of all restrictions as possibilities arose within the framework of the general programme of the CONTRACTING PARTIES. Each developed country would contribute to this programme of liberalization proportionately with the scope of its quantitative restrictions of all types. These delegations considered that this solution was more realistic and had the merit of not excluding numerous restrictions which would remain outside the scope of other proposals; it seemed to them more consistent with the spirit of the general programme of the CONTRACTING PARTIES in the field of non-tariff barriers.

7. Various special aspects which some delegations felt should be taken into account in any overall solution are set out below:

(1) Attention was drawn to the proposal concerning developing countries, contained in paragraph 4, previously made in the Joint Working Group. Some developing countries emphasized that any programme for removal of
quantitative restrictions of interest to them would have to take into account the time targets for the Second Development Decade. The removal of restrictions on such products should not also be made to depend on the possibility of agreements among countries maintaining restrictions or on the progress of work in the GATT on other fields.

(2) Developing countries having import restrictions not formally authorized by the CONTRACTING PARTIES but which could be justified under Article XVIII:B were urged to invoke the Article and consult as one contribution to the general effort to remove quantitative restrictions. Other countries with import restrictions not now formally authorized by the CONTRACTING PARTIES should also agree to consult under procedures similar to those applicable in the case of invocation of Article XII or XVIII:B.

(3) Some delegations expressed their serious concern about the discriminatory aspect of the restrictions maintained by some countries, and urged that such features which are inconsistent with the most-favoured-nation provisions of the General Agreement be eliminated as soon as possible.

(4) Some countries suggested that it would contribute to liberalization to draw up a note interpreting Article XXIV in the sense that the Article did not authorize discrimination by any member country, member of a regional grouping in the operation of quantitative restrictions to favour other members of a free-trade area or customs union.

(5) It was suggested that in order to avoid abuse, recourse to Articles XX and XXI should be strictly confined to cases which were clearly and demonstrably consistent with the limited purposes set out in these Articles.

(6) Some delegations pointed out that a considerable reduction of the trade restrictive effects of quantitative restrictions could be obtained if a more objective basis for establishment of quotas were used instead of the practice of allocating quotas on the basis of trade during one preceding year for goods where exports are fluctuating.

(7) One delegation drew attention to the possibility which had been mentioned in the Director-General's proposal on import restrictions (L/3260) that there might be dismantling of restrictions either on a unilateral basis or by negotiations or agreements among pairs of groups of countries. Such dismantling might in some cases be staged. The contracting parties should, however, be kept informed about the progress achieved in such negotiations.

8. The possibility of an approach by products or sectors within the framework of a general programme was also explored. Such an approach would have a certain bearing on achieving freer trade as countries might find it easier to relax
restrictions in sensitive areas if such action were taken concurrently with similar action in several other import markets, since the pressure of increased imports could be spread in this way rather than concentrated on a single country. There was a feeling, borne out to some extent by the preliminary findings of the secretariat, that there might be relatively few areas of the kind. Some delegations pointed out that tariff action might comprise an important addition, since some countries still had substantial tariff protection which could well be reduced. Other delegations thought that the scope for tariff action in the framework of a general programme on quantitative restrictions was extremely limited, since most such restrictions were illegal and should therefore be removed unilaterally.

9. The Group also discussed the possibility that the chances of success might be improved by a broader and possibly separate sectoral approach in which tariffs and other non-tariff barriers as well as quantitative restrictions might be included.

10. Discussions of bilateral agreements, export restraints and licensing and of proposals for dealing with them are also contained in L/3496 pages 70 to 75.