1. Working Group 4 was established by the Committee on Trade in Industrial Products in December 1969, to examine the following subjects in the Illustrative List (Annex I to document L/3298): licensing arrangements, quantitative restrictions including embargoes, bilateral agreements, voluntary restraints, motion-picture restrictions including tax matters and screen-time quotas, and minimum prices on textile imports. The Group met from 4 to 8 May under the Chairmanship of Mr. H. Colliander (Sweden).

2. The Group not only had in mind the general terms of reference in regard to the exploratory nature of its work, but wished to emphasize that in many cases the views recorded are only tentative at this stage, and that all delegations would have full latitude to supplement and clarify them when the report was brought for discussion by the Committee on Trade in Industrial Products.

3. In accordance with the desire of the CONTRACTING PARTIES, as expressed in their conclusions, that as the work of the Groups proceeds particular attention should be paid to the problems of developing countries, the Group recalled that the Joint Working Group had identified a list of measures of special importance as barriers to trade of developing countries and that some delegations had recommended priority attention to removal of those restrictions without expectation of reciprocity from the developing countries. This Group endorses that recommendation. It also suggests that a time-table be adopted for removal of such restrictions and that where this is not possible commitments be formulated regarding increases in quotas, possibly in relation to the development of the internal markets of the developed countries for these products. This suggestion applies not only to non-discriminatory restrictions
on products identified as of special concern to developing countries but also to restrictions on such products applying only to a few countries, but including certain developing countries.

4. In the conduct of its work, the Group felt that it could well dispense with a general item-by-item review of the notifications mentioned in the Illustrative List in view of the comprehensive review which had just been carried out by the Joint Working Group concerning restrictions of eighteen developed countries. The Group also took cognizance of the distinction made in the Joint Working Group between the problem of seeking solutions which would involve relaxation and elimination of restrictions and the somewhat more indirect, or longer-range, matter of providing more adequate procedures and cover for those hard-core restrictions which might not prove susceptible to early removal. It considered that its own mandate to seek solutions indicated, in this particular case, that it should concentrate on identification of ways in which specific import restrictions might be removed and on determining the potential scope of action to that effect, leaving to the Council to establish separate channels for consideration of needs with respect of those measures which it might prove impossible to eliminate. Some of the suggestions made below for solutions might, however, contribute to whatever procedures or institutions were ultimately established for that purpose.

5. In addressing itself to solutions appropriate to the various types of specific barriers to trade in industrial products, the Group decided to take in order the kinds of measures set out in Part 4 of the Illustrative List, considering each in turn. First, however, it considered certain proposals for more general solutions.

6. The suggestion had been made that a contribution to the removal of barriers might be made by agreement on terminology, i.e. by attempting to define the different types of restrictions in use. As will be seen, much of the Group's work was in fact directed towards seeking agreement on definitions of categories of measures, but it was suggested that to fix the elaboration of a code as a major objective might tend to support the continued use of many measures which ought, instead, to be removed as rapidly as possible.
7. One delegation made a package proposal for removal of import restrictions applied contrary to GATT provisions. This delegation considered that there was compelling reason to direct priority attention to such restrictions in that there was no acceptable reason for their maintenance and in that their continued existence undermined the legal basis of the Agreement. Continued application of such restrictions also made it extremely difficult to resist protectionist pressures. The proposal envisaged:

1. The prompt elimination of all illegal trade measures.

2. Where the prompt removal of illegal 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.

8. Some delegations noted that this proposal was substantially the same as that made earlier by New Zealand. This meant that it was subject to the reservations then expressed by some concerning the difficulty of dealing with agricultural restrictions except in a context linked to solution of problems of agricultural policy. It was noted that this objection was only partially valid since the work of the Joint Working Group had shown many instances, chiefly concerning processed agricultural products, where there was no need to wait upon resolution of agricultural policy issues to effect important liberalization action. The fact remained however, that 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 a historical accident. Furthermore it was beyond doubt that much ingenuity would be exercised to produce legal
justifications for more and more of the restrictions in force, with resulting im¬
pairment 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 unbinding of tariff
rates, which might be at least as harmful to trade. One delegation also pointed
to the large number of discriminatory export restraints which it regarded as
disguised import restrictions at least as illegal as any others and wished to
know whether such restrictions would be included in the scope of the proposal.

9. These delegations tended to prefer arrangements for a general movement towards
liberalization such as would be assured by considering quantitative restrictions
as a whole, taking legal and illegal restrictions alike and, in particular,
including restrictions covered by the terms of particular accession protocols,
the provisional application clause, waivers, invocation of Article XXXV and similar
circumstances. Some delegations expressed the view that such a broad approach
should envisage progressive relaxation and gradual elimination of all these
restrictions, to proceed circumstances permitted, in the framework of the general
programme of work of the CONTRACTING PARTIES. In this connexion it was recalled
that proposals for notification and periodic consultations for all restrictions had
been made in the Joint Working Group and that they would be examined by the Council.

9bis. There was wide support for the view that all restrictions on products of
special interest to developing countries and restrictions having a significant
effect on their trade should be included within the purview of whatever action
was decided upon and should be given priority consideration.
Quantitative restrictions including embargoes

10. In considering the types of solution which might appropriately be used in action to relax and remove quantitative restrictions and to remove embargoes, the Group gave principal attention to an overall solution in which each developed country would take action on the restrictions which it presently maintains. This was discussed chiefly in the context of the proposal regarding illegal restrictions reported above (paragraph 7). The proposal was supported by a number of countries. A composite proposal set out in (a) below reflects the views of other countries which commented on the proposals referred to above. Various other possibilities for general solutions are contained in (b) to (h). Some discussion of smaller negotiated packages of liberalization actions follows this main section. These various possibilities should not be regarded as mutually exclusive.

General solutions

11. (a) A number of countries generally felt that one possibility for removal of non-tariff barriers in this area appeared to be an undertaking by all developed countries not invoking Article XII to phase out their import restrictions on industrial products on the following lines:

(1) A maximum number of restrictions of trade significance, in particular those of special concern to developing countries, to be eliminated by some target date, e.g. 1 January 1972.

(2) Adoption of a programme of increases in quotas to be effected beginning immediately and extending possibly one or two years beyond the target time for elimination of the first group of restrictions. The increases might be stated in percentages keyed either to domestic production of the goods restricted or to amounts of the restricted products imported in past years, or might be tied to development of the internal market of the product.
(3) The programme would include, for a start at least, token increases of quantities of imports of all restricted products to be increased up to a date of final liberalization.

(4) For any products not susceptible to treatment in one of the above categories, countries would be obliged to seek waivers or other legal cover as from the end of 1971, and failing success in such effort, would pay compensation. It would be understood that countries obtaining waivers would be subject nevertheless to the provisions of Article XXIII.

(5) Included in the scope of the programme would be:

- Licensing systems (possibly excepting some automatic schemes to be defined);
- Quotas and embargoes;
- State-trading practices;
- Export restraints;

including restrictions justified from a legal standpoint by protocols of provisional application and invocation of Article XXV.

(6) While implementing the programme, new restrictions should not be introduced.

(7) Such a programme would imply a need for one or more meetings at intervals of one or two years to review progress,

(b) With regard to quantitative restrictions, both legal and illegal, of particular export interest to the developing countries, some countries proposed that developed countries should, on an most-favoured-nation basis (a) give high priority to the prompt removal of illegal quantitative restrictions, and (b) wherever feasible and without requiring full compensation, establish time-tables for the elimination of legal quantitative restrictions or, where that is not possible, increase quotas, perhaps relating such increases to growth in the market.

(c) Developed and developing countries having import restrictions but not now consulting under Article XII or XVIII or some similar procedure were urged to accept some form of consultation as their contribution to the general effort to remove quantitative restrictions.
(d) Some delegations expressed their serious concern about the discriminatory aspect of the restrictions maintained by some countries, and urged that such features which are against the provisions of the General Agreement be eliminated as soon as possible.

(e) Some countries suggested that it would contribute to liberalization to draw up a note interpreting Article XXIV in the sense that that 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.

(f) 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.

(g) One delegation 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.

(h) Some delegations favoured a more general approach as already outlined in the introduction to this report and covering legal and illegal quantitative restrictions alike, whether applied by direct or by indirect methods such as self-restraint. Those delegations felt that this would be a more realistic approach and that it had the merit of not excluding a large number of restrictions that would not fall within the scope of other proposals. Individual developed countries would contribute proportionately with the scope of their quantitative restrictions of all kinds. This solution appeared to them to be more in line with the general programme of the contracting parties in the field of non-tariff barriers.
Partial solutions

12. There was discussion of the possibility of identifying commodity sectors in which a number of countries maintain import restrictions, on the theory that one country might find it easier to relax restrictions in a sensitive sector if the action were taken concurrently with similar action in several other import markets, since the pressure of increased imports would be spread in this way rather than concentrated on a single country. There was some feeling that there might be relatively few sectors to which such a procedure would be applicable, but a number of countries felt that the idea might be examined further when the results of the Joint Working Group's review became available. In this connexion it was stated by some developing countries that such action should include products of particular export interest to them. The view was expressed that in order to avoid undue delay in the process of identification of these commodity sectors, the setting up of a target date was essential. One suggestion was that more than one commodity might be linked in such action, so that a country which stood to gain by a group relaxation in one sector might match the action by relaxing restrictions with respect to other products of which it was a potential importer, for example. It was further noted that tariff action might comprise a concomitant which some countries could add to any packages attempting to deal with particular commodities, since some countries still had substantial tariff protection which could well be reduced.

Discriminatory bilateral agreements

13. Some countries maintained that discriminatory bilateral agreements were against the spirit and the letter of the General Agreement and that GATT had no provisions permitting discriminatory agreements except in very special cases for countries in balance-of-payments difficulties. They proposed, as a first step, that all bilateral agreements of a discriminatory nature, whether based on a clearing arrangement or providing for settlement in convertible currency, should be notified by 1 July 1970. Since the General Agreement had no provisions dealing
with discriminatory bilateral agreements an interpretative note or declaration
should be drawn up prohibiting bilateral agreements where they have a
restrictive or discriminatory effect on trade. They further proposed that all
discriminatory bilateral agreements should be eliminated over a period of
three years and in the meantime no such agreement should be renewed. Any
contracting party maintaining a bilateral agreement should consult with the
CONTRACTING PARTIES as presently those operating under Article XII or XVIII:B
consult in the Balance-of-Payments Committee.

14. Some countries stated that the proposal for elimination and surveillance
of bilateral agreements should only be applied to developed countries. They
claimed that in the case of developing countries bilateral agreements were a means
to maximize trade. These agreements had provided a basis for trading with
centrally-planned economies and countries having similar trading system, had
stimulated export efforts and lead to diversification of exports of the developing
countries concerned. It was therefore impractical to consider elimination of
these bilateral agreements. These countries asked the notifying countries to
take these facts into account. Other countries pointed out that while bilateral
agreements may bring short-term benefits to the parties concerned, they usually
result in a misallocation of resources and a distortion of trade to the
disadvantage of all contracting parties.

15. The question of bilateral agreements with State-trading countries was
discussed. On the part of the notifying countries it was claimed that bilateral
trade agreements with countries with centrally-planned economies were entered into
mainly in order to get a more favourable trading position than that of other
countries. They should, consequently, be terminated at an early date. A member
of the Group representing a centrally-planned economy described the different
types of trading relationships of his country. Bilateral agreements between
centrally-planned countries and developing countries had proved to be beneficial
to both parties and should continue to exist, a view which was supported by some developing countries which in general favoured the maintenance of bilateral agreements. Bilateral agreements with developed countries should, in his view, be eliminated. In his opinion bilateral agreements could be abolished if m.f.n. treatment were granted to his country which was a full contracting party to GATT. Other countries pointed out that the maintenance of discriminatory bilateral agreements was not motivated by the desire to increase one's bargaining position.

16. The same arguments mentioned in the case of quantitative restrictions were valid for quotas allocated under bilateral trade agreements mainly the protection of sensitive sectors of production, market disruption, social reasons, etc. Bilateral agreements should thus be dealt with in conjunction with quantitative restrictions.

17. Some countries pointed out that, while quantitative restrictions can, indeed, within a system of clearing arrangements, be used, in a way, as an instrument for negotiation, such a possibility no longer exists within a system of multilateral payments where the sole purpose of restrictions is to afford protection.

18. Another member of the Group stated that it would be inappropriate to pursue further the discussion in relation to bilateral agreements of this kind pending the outcome of work in other GATT bodies; and in view of the notifications on such agreements already being provided it would be necessary to avoid duplication arising from the first proposal in paragraph .

Export restraints

19. It was agreed to change the title to "Export Restraints" because notifications concern cases where the notifying countries restrained their exports because of the threat of imposition of unilateral restrictive measures by importing countries.
20. Some countries considered that export restraints were of the same character and had the same effect as quantitative import restrictions.

21. Countries against which notifications were made stated that export restraints in many cases were more favourable to exporting countries than alternatives which would otherwise be applied. They pointed out that levels of restrictions were known in contrast to import quotas which were not always published and that they frequently were higher than were unilaterally imposed quotas. They had reason to believe that export restraints were less disadvantageous particularly because they were the results of consultations and negotiations with the exporting countries. In some cases, the exporting countries had imposed export restraints of their own accord in order to maintain quality control or preserve competition between their exporters.

22. In reply to the point regarding consultations, countries operating export restraints maintained that the so-called consultations were not carried out on a mutually advantageous basis.

23. Countries operating export restraints considered that such restraints in certain cases had harmful effects on trade similar to quantitative import restrictions. Furthermore they were applied on a discriminatory basis. There were also cases where residual quantitative restrictions were replaced by export restraints. It was proposed that the same rules for relaxation of quantitative import restrictions which had been suggested should apply to the elimination of export restraints.

24. No other specific proposal for solutions was made, as some delegations including the notifying countries, considered that the best way to solve the problems was to treat export restraints in the same manner as quantitative import restrictions. In this context, some countries proposed that the CONTRACTING PARTIES should work out a notification and consultation procedure in order to secure proper surveillance under GATT; reference was made to the relevant suggestions made in the Joint Working Group.
Motion-picture restrictions

25. The notifying countries pointed out that a variety of measures were used to limit trade in motion pictures. They were concerned that any of these measures can be substituted one for the other to restrict trade and proposed a standstill with regard to all of them.

26. These countries considered certain restrictions as inconsistent with the General Agreement, namely quantitative restrictions on the internal distribution of films, discriminatory taxes, local printing, sub-titling and dubbing requirements, and export subsidies.

27. Although motion-picture screen-time quotas are permitted under Article IV, a standstill should be agreed and ultimately screen quotas should be eliminated. They also noted that Article IV envisaged negotiations in this field.

28. They proposed that all illegal restrictions be removed promptly or, if this was not possible, by 1 January 1972. Countries maintaining illegal restrictions after that date should be required to seek waivers of their GATT obligations or pay appropriate compensation.

29. One delegation pointed out that the practice of setting screen-time quotas for recorded television programmes contravened Article III which, inter alia, prohibits the use of "mixing regulations". Other delegations expressed the view that Article IV, in their interpretation, was also applicable to television quotas.

30. One notifying country expressed the view that subsidies tended to distort trade in films. A solution was envisaged along the lines of that proposed in Working Group 1 for domestic aids:

(a) All contracting parties should notify their subsidies by 1 July 1970 in the form prescribed in the Annex to the report by the Panel of 1960.
(b) On request, notifications should be followed by consultations among interested parties or with the contracting parties in accordance with Article XXII or, if no satisfactory solution were found, as provided for in Article XXIII.

31. Moreover, it was suggested that criteria along the following lines should be developed to ensure that film subsidies have no trade-distorting effects.

(a) No subsidies could be paid which would result in production of an entertainment film which would not otherwise have been made.

(b) Any government aids should be limited to those designed to raise the competence of film makers and increase the quality of films.

(c) Governments should not subsidize exports.

(d) There should be no discrimination in internal tax treatment in favour of domestic or of certain foreign films.

(e) Any subsidies paid should be extended to foreign producers and other film interests.

(f) Production subsidies should not be paid that cause the transfer of film production from one country to another.

32. Some delegations considered that proposals on this subject were of a technical nature and should be considered by governments before they would be in a position to give even a provisional answer.

33. One delegation, while agreeing with the principle of freedom of trade in films, said that a case could be made for a subsidization of the film industry in developing countries, at least during a transitional period.

Minimum price regulations

34. The Illustrative List included the problem of minimum prices as a condition to importation, with special reference to a system maintained by one contracting party to control imports of certain textile products from three contracting parties. One notifying country withdrew on the information that the system did
not apply to its trade. One affected country presented the case for this notification briefly, but emphasizing that the practice of excluding goods priced below levels fixed in relation to prices in the importing country was unacceptable if only because of its discriminatory character.

35. Further, the same country claimed that the system of minimum prices was inconsistent with the provisions of the General Agreement and urged the abolition of the system at the earliest opportunity. The representative of the maintaining country explained that this was a measure chosen amongst several because it was the least detrimental to trade. The system was to be reconsidered and if necessary the government of his country would establish direct contact with the notifying government.

36. Another delegation supported by a group of countries, referred to a somewhat similar system applied by another contracting party to textiles and certain other goods. This so-called abnormal pricing practice had been considered in Group 2 but because it resembled a quantitative restriction had been transferred to Group 4. Imports from a particular country can be suspended pending investigation and during the interval other higher-priced goods are free to enter. This appeared to the notifying country to be a quantitative restriction not justified under GATT as it was not a regulation operated in conformity with provisions concerning anti-dumping. The representative of the maintaining country stated that a change in regulations to bring his country's law into conformity with the Anti-Dumping Code was under consideration and that meantime no use was being made of the measure in question. He hoped to supply a text of the new decree as soon as possible. It was agreed that this problem might be reverted to in Group 2 but would be retained in Group 4 for the time being.

Licensing

37. Turning to the first problem on the Illustrative List, the Group recalled the debate on licensing recently held in the Joint Working Group on Import Restrictions and the earlier debate in the Industrial Committee recorded in the General Note to Part 4. An effort was then made to define more precisely the positions of different countries on the nature of licensing and to categorize different types of licensing which had been identified, in order to clarify the possibilities of removal of licensing systems.
38. One preliminary question was also discussed, namely the possible desirability of recommending that the CONTRACTING PARTIES arrange for elaboration of a code setting out certain standards to which licensing procedures, and possibly other import procedures, should conform. A code developed in the OECD in 1966, to which reference was made in the debate on the nature of licensing (see paragraph 40 below) suggested this possibility. In its paragraphs 7 to 14 the OECD code set standards on publication of notices of licensing possibilities, methods of fixing amounts to be licensed, time-limits for applications, validity of licences, rights of appeal and the like. Several countries noted that administrative arrangements for allocation of licences and other aspects of the administration of import procedures offered an area in which an important contribution could be made to reduction of the trade restrictive effect of such measures. They noted that several notifications in the Inventory had been directed to uncertainties, delays and unfavourable competitive conditions which often resulted from avoidable practices in the administration of licensing procedures. Such a code would therefore be entirely relevant in their view to the task of this Group. Some delegations reserved their positions in the matter until their governments should have an opportunity to study the OECD code. It was also noted that the code covered certain other matters which might have relevance for work in progress on non-tariff barriers in other groups, especially Group 2 (see paragraphs 4 and 5 of the OECD code).

39. A suggestion concerning administrative procedures for import licensing requirements not justified by reference to a particular provision of GATT was also submitted by one delegation, as possibly needed to cover existing measures which might be tolerated, subject to appropriate safeguards. This delegation proposed that an import licensing requirement not justified by reference to a particular provision of GATT should provide that:

1. the arrangements for the receipt of applications should be published;
2. applications should be accepted from and licences granted to all applicants without discrimination;
(3) licences should be granted upon presentation of the application by the importer;
(4) no conditions should be attached to the issue of licences.

Nature of licensing

40. The OECD code had been introduced into the debate by a contracting party which is a member of both organizations in support of its view that licensing, except when needed to implement restrictions authorized by the provisions of GATT, was a form of import restriction and should be eliminated. Paragraph 6 of the OECD code provided that goods not subject to quantitative restriction should not be subject to any licensing procedure. It further provided that in special cases, where there was need to carry out certain controls which could not be effected in a more appropriate way, a system of automatic licences might be applied, where licences were issued within a maximum of five days from deposit of the request. To those supporting the view that licensing was a form of restriction, the force of these provisions was to assimilate licensing in general to restriction and to permit it only for special cases, which might be roughly the equivalent of various exceptions in GATT. Some other delegations considered that the code confirmed their view that automatic licensing was a legitimate formality permitting the attainment of various special objectives and did not in itself constitute a restriction.

41. The requirement of licensing, some delegations noted, was a formality no different in kind from other formalities which were in force in all GATT countries and which were generally admitted in GATT not to be restrictions. In this view, licensing could only come within the meaning of Article XI, paragraph 1, if it were shown that the effect was to restrict imports. That licensing as such was not intended to be forbidden was indicated by language in Article VIII recognizing the need to minimize the incidence and complexity of import formalities and to decrease and simplify import documentation requirements. Other delegations
considered that any system of import licensing constituted a barrier, either potentially or in fact, and emphasized their view that the cost, delay and uncertainty to traders which was involved in any licensing system operated as a deterrent to trade, in particular to long-term planning for promotion of exports since a threat of restrictive action continued to overhang and influence planning of manufacturers and traders. They pointed out that these uncertainties reflected actual experiences of traders who had found that licensing had been used to restrict imports, even under so-called automatic licensing systems. In their view such measures should be abolished except where necessary to implement restrictions consistent with GATT. The balance-of-payments articles were mentioned in this connexion as were Articles XX and XXI. In regard to the latter two Articles, it was generally recognized by the Group that existing uncertainties as to their scope was regrettable but could probably best be dealt with by the exercise of restraint and goodwill all around as efforts to provide precision through definition would be likely to prove counter-productive.

42. During the discussions the Group identified various types of licensing systems, which might be categorized as: (1) those intended to implement quantitative restrictions (and these might or might not be operated consistently with GATT provisions); (2) those arrangements claimed to be fully automatic and/or with no restrictive effects; (3) others.

43. The first category was not extensively discussed, although it was pointed out that countries having balance-of-payments difficulties were entitled to use import licensing systems when quotas were not practicable and under conditions specified in the Agreement.

44. As concerned automatic licensing systems, some countries claimed that such procedures were needed for example to obtain very expeditiously needed statistical data not otherwise available or to facilitate collection of taxes or levies but stated that licences were granted without delay, sometimes in circumstances giving the government no discretion to refuse licences. They considered that such licensing requirements did not constitute a restriction or barrier. Countries
which regarded licensing *per se* as a barrier to trade could not accept that such measures were necessary or desirable and considered that other methods not harmful to trade could be found to accomplish such objectives. In their view customs data, including invoice values, offered a more reliable basis for gathering statistics since traders tended to apply for licences for more goods than were currently needed whenever government tended to restrict imports through licences. Moreover, it was noted that many licensing systems applied only to selected types of imported products, so that licensing could not be justified on statistical grounds.

45. In certain other cases the licensing formality was intended to serve other special purposes, e.g. to enforce security, health or safety measures, to ensure that trade remained in the hands of qualified traders, to avoid speculation, to watch over the character of trade with non-contracting parties or as a transitional phase while moving from a former régime of quantitative restriction to a coming complete liberalization. It was noted that some of these cases, notably *bona fide* security, health and safety measures, would fall within provisions of GATT permitting restrictions that were not discriminatory and did not constitute disguised restrictions on trade. Licensing might also be used to facilitate surveillance of prices or volume of trade, but even in this case the countries maintaining such systems contended that the formality *per se* did not constitute a restriction. On the contrary, its use contributed to avoidance of the imposition of restrictions, permitting the authorities concerned successfully to oppose unfounded claims for protection by placing them in a position to show that restrictions would not be justified.

46. In the view of other delegations, licensing requirements for this last category of purposes in some cases involved undue time delays and administrative red tape and they considered that licensing might in such cases be regarded as an obstacle to trade. Developing countries pointed out that licensing was often applied to products supplied mainly by developing countries while similar or competing products from developed countries were exempted.
47. The countries which regarded licensing *per se* as a barrier to trade saw in the description of motives for this third category of licensing, which had already been discussed at length in the full committee, a confirmation of their belief that licensing was in such cases a form of import restriction. Moreover, they pointed to the principle in Article III that requirements affecting imported products should not be applied so as to afford protection to domestic production. These countries proposed that licensing requirements be eliminated by 1 January 1972 except where required to implement import restrictions consistent with the GATT.

48. An effort was made to isolate the factors in the situation on which there was a measure of agreement and to determine whether there was a possibility of narrowing the issues. The following emerged:

(1) Most countries agreed that a licensing requirement in itself could not be said in all cases to constitute a barrier to trade but in certain cases it operated as a barrier and thus constituted an import restriction. Some delegations took the view that all licensing except such as may be required to implement restrictions consistent with the provisions of the Agreement would normally constitute a barrier to trade.

(2) Most countries agreed that a fully automatic licensing system, where the competent authorities had no discretion to refuse a licence and where licences were granted within a maximum limit of five days from the date of application, was not harmful to traders and was consistent with the principles and provisions of the General Agreement. Some delegations disagreed for the reasons stated above. Removal of such a system could be of value to trade partners and traders which, for various reasons, regarded licensing as such or the possible threat of restriction as a barrier to trade.

(3) There was general agreement that some instances of licensing involved restriction of imports, usually in breach of Article XI, paragraph 1, especially where the objective was to give effect to bilateral agreements or otherwise to control imports from particular country sources, to maintain surveillance over the level of internal prices or the volume of imports.
(4) There was general agreement that in many instances other than those where the acknowledged purpose of licensing was restrictive, licensing in practice involved delays, uncertainties and elements of discrimination which hampered the flow of trade.

(5) The instances identified as falling in (3) and (4) above constituted restrictions which should be included in any general programme for removal of import restrictions.

(6) Some delegations suggested that an acceptable programme for action in this area should envisage removal by fixed target dates of all licensing systems identified as constituting import restrictions inconsistent with the substantive provisions of the General Agreement.