1. Pursuant to its mandate to elaborate on an ad referendum basis concrete solutions within the area of problems explored by Working Group 4, commencing with the operation of licensing systems, the Group submits to the Committee two drafts, one on automatic licensing (Annex I) and one on licensing to administer import restrictions (Annex II). It was agreed that these two texts should be accompanied by this cover note when circulated to governments. The Group considered that these two texts, if accepted and implemented, could contribute not only substantially to solution of the specific problems notified in the inventory but also to the objectives of minimizing the incidence and complexity of import formalities and decreasing and simplifying import documentation requirements.

2. As regards automatic licensing, the Group has reached a fair measure of tentative agreement\(^1\) with the exception of paragraph 2 which contains two alternatives. Alternative I reflects the view that automatic licensing systems are necessary for specific purposes, but if administered in accordance with the provisions of the proposed instrument would not be restrictive to trade. Alternative II, on the other hand, reflects the view that such systems should be abolished by a fixed date. The Group recommends that governments should closely examine these two alternatives with a view to finding a mutually acceptable solution.

\(^1\)The representative of Austria accepted the text of paragraph 5 on the understanding that, where strictly indispensable, certificates of origin could be required on actual importation.
3. As regards licensing to administer import restrictions, the Group's approach basing itself on the existing relevant provisions of the General Agreement notably Article XIII:2-4, has been to concentrate on developing a text, the main intent of which is to ensure that administrative procedures should aim at facilitating the full and efficient utilization of quotas administered through licensing systems.

4. The Group noted proposals of developing countries aimed at ensuring improved allocation of quotas to them and their request that these problems be given special attention when the Group addressed itself to the problem of quantitative restrictions. Inter alia it was suggested that where imports were subject to quota restrictions, such quotas should not be applicable to imports of products intended for re-export.

5. In both texts, bracketed paragraphs (paragraph 4.A of Annex I and paragraph 1 of Annex II) relate to questions of discrimination in operation of licensing systems. Some delegations noted that the problem of discrimination arose in a number of other non-tariff barrier subjects and expressed the view that this question should be examined in a wider context. Other delegations considered that the paragraphs proposed to deal with the question of discrimination constituted an essential part of the texts.

6. The Group has not considered in great depth such questions as the legal status of the results, their relationship to existing rights and obligations or the necessity to devise appropriate consultation and other implementation machinery. In a preliminary exchange of views, some delegations considered that it was within the terms of reference of the Group to make recommendations on the legal status to be given to the texts prepared, while others expressed the view
that this matter should be left to the Committee on Trade in Industrial Products, or other higher bodies of the CONTRACTING PARTIES. No recommendation on these questions was formulated by the Group.

7. Some delegations maintained that the draft texts resulting from the work of the Group did not necessarily need to be regarded, in either case, as constituting perfect reciprocity as between participating countries.

8. The Group considers that, in view of the progress made on the two texts, it would now be appropriate to refer them to administrations, in accordance with instructions of the CONTRACTING PARTIES, for careful examination and for consideration of implications arising from their acceptance. Having regard to the fact that in some cases changes in legislation might be involved, the Group would recommend that this examination be undertaken as soon as possible.
Automatic Import Licensing

1. Automatic import licensing is defined as licensing which is not used to administer import restrictions and which is not employed pursuant to the relevant provisions of the General Agreement inter alia Articles XI, XII, XVII, XVIII, XIX, XX and XXI, and when foreign exchange is granted automatically. The term "automatic licensing" covers technical visa requirements, surveillance systems, exchange formalities related to imports, and other administrative reviews of an equivalent kind effected as a prior condition for entry of imports.

2. Alternative I

Automatic licensing systems, where required, shall not be used to restrict imports. Such systems shall be governed by the provisions of the General Agreement, in particular Article VIII, and be subject to the provisions set out in paragraphs 3-9 below.

Alternative II

No automatic licensing shall be required for the importation of goods after ....... However, during the interim period, in special cases justified by the need to carry out certain administrative controls which could not be made in a more appropriate way, a system of automatic licensing may be applied subject to the following provisions.

3. The rules governing presentation of applications for automatic licences and the lists of products subject to automatic licensing shall be published, with a specific indication as to the character of the system, in such a manner as to enable governments
and traders to become acquainted with them. Any changes in either the rules governing automatic licensing or the lists of products subject to automatic licensing shall also be promptly published in the same manner.

4.4. Automatic licensing systems shall be applied without discrimination as to sources of imports.

4.B. All persons, firms and institutions which fulfil the legal requirements for engaging in import operations subject to automatic licensing shall be equally eligible to apply for and to obtain licences.

5. Application forms shall be as simple as possible. No document shall be required on application other than a pro forma invoice or, where strictly indispensable, other documents necessary to determine the nature and composition of the product.

6. No application shall be refused for minor errors in documentation easily rectifiable.

7. The applicant shall have to approach only one administrative organ for a licence.

8. Applications for licences may be submitted at any time.

9. Applications for licences shall be granted immediately on receipt or if not administratively feasible within a maximum of five working days from the date of receipt of the application.
ANNEX II

Licensing to Administer Import Restrictions

It is recognized that the procedures adopted for the issue of licences for administration of import restrictions may, in some cases, have additional restrictive effects on imports. The following provisions shall accordingly apply when a licensing system is considered necessary for the administration of quotas and other import restrictions.

1. Licensing systems to administer import restrictions shall not be designed nor operated in such a manner as to prohibit imports from certain sources or discriminate between sources of imports, unless otherwise permitted under the General Agreement.7

2. The foreign exchange necessary for the payment of imports shall, where required, be made available to import licence holders on the same basis as to importers of goods not requiring import licences.

Information and publication

3. All useful information concerning formalities for filing applications for licences shall be published by the government which imposes or maintains the licensing requirement, as far in advance as possible of any opening date for submission of applications for licences.

4. In the case of import licences issued in connexion with import restrictions, all relevant information shall be provided to governmental authorities, upon their request, concerning the administration of the restrictions, the import licences granted over a recent period, and the distribution of such licences among supplying countries, including wherever possible names of importing enterprises on a confidential basis.
5. In the case of licences for import restrictions involving fixed quotas the overall amount of quotas, by quantity or value, including revisions during the quota period, of goods that could be imported during that specified period, dates of opening of quotas and, where applicable, the amount allocated by country, shall be published.

Procedure for licence applications and distribution of licences

6. Any person, firm or institution which fulfils the legal requirements shall, to the extent possible having regard to the provisions of paragraph 14 below, be equally eligible to apply for licences and to get their applications considered accordingly.

7. A reasonable period shall be allowed for submission of applications for licences.

8. Application forms and procedures for application and, where applicable, renewal shall be as simple as possible.

9. The period for processing of applications shall be as short as possible.

10. In the event of refusal of an application, the applicant shall be given on request the reasons for such refusal and shall have the right of appeal.

11. The validity of the licence shall be of reasonable duration, and in no case so short as to prevent imports from countries situated at a distance, taking into account transport and communications conditions.

12. When administering quotas, the authorities of the importing country shall take all possible steps to ensure that licences can be issued and importation effected within the period prescribed for this purpose and to facilitate the full utilization of the quotas.
13. The administrative authority issuing the licence shall take into account inter alia whether licences issued to the applicant in previous periods have been utilized or not.

14. Licences should not be issued to importers for goods in such small quantities as to make imports uneconomical while avoiding allocations to an unduly small number of importers.

15. Consideration shall be given to ensuring a reasonable distribution of licences to new importers, taking into account the desirability of issuing licences for goods in economic quantities.

16. In the case of quotas administered through licensing which are not allocated among supplying countries, licence-holders shall be free to choose the sources of imports.

17. In the case of quotas allocated among supplying countries, the licence shall clearly stipulate the country from which imports must be made.

18. Imports of goods under restrictions should, wherever practicable, be allowed on the basis of normal customs procedures, or in accordance with procedures worked out in agreement between exporting and importing countries, on the basis of export permits issued by the exporting countries.

19. Where export permits are issued by exporting countries according to a procedure worked out in common agreement with an importing country, but where the importing country for certain purposes requires import licences, the latter shall be issued automatically, within the limit of the quotas, in accordance where appropriate with the provisions of Annex I.