GROUP 4 ON LICENSING

Report by the Chairman

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 administrations. The Group considered that the two texts, if accepted and implemented, could solve the specific problems notified in the inventory and contribute in this field to the objectives of minimizing the incidence and complexity of import formalities.

2. As regards automatic licensing, the Group has reached a fair measure of agreement with the exception of paragraph 2 which contains two alternatives. The Group recommends that administrations should closely examine these two alternatives with a view to finding in due course a mutually acceptable solution.

3. As regards licensing to administer import restrictions, the Group's approach basing itself on the existing relevant provisions of the General Agreement notably of Article XIII, has been to concentrate on developing a text, the main intent of which is to minimize the additional restrictive effects arising in some cases from licensing procedures to administer import restrictions and particularly to facilitate the full and efficient utilization of quotas administered through licensing systems.

4. In its work on licensing, the Group noted proposals made by developing countries that quantitative restrictions affecting their export trade should be removed by a fixed target date, if necessary on a preferential basis, and that pending their total elimination allocation of quotas to them should be improved. Inter alia it was pointed out that 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 posed special problems to new exporting developing countries and it was suggested that this criterion should be revised to ensure adequate share of the quota to the new entrant. It was also proposed that where imports were subject to quotas, such quotas should not apply to imports of products intended for re-export. The requests of developing countries concerning these problems will receive special attention when the Group address itself to the problem of quantitative restrictions.

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1 One delegation accepted the text of paragraph 5 of Annex I on the understanding that, where strictly indispensable, certificates of origin could be required on actual importation.
5. In both texts, bracketed paragraphs (paragraph 4A of Annex I and paragraph 1 of Annex II) relate to questions of discrimination between sources of imports in the design or 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 and that therefore the inclusion of these paragraphs was not appropriate. Other delegations while recognizing the necessity of such an examination in a wider context considered that this did not preclude inserting in the texts the paragraphs proposed to deal with the question of discrimination. These delegations considered that the paragraphs constituted an essential part of the texts in view of the fact that the principle of non-discrimination is basic to GATT.

6. The Group has not considered in depth such questions as the legal status of the texts, 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. The Group considered that, in view of the progress made on the two texts, it would now be appropriate to refer them to administrations 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.

8. The Group noted the decision of the Council at its meeting on 21 April 1971 that Group 4 when dealing with licensing would consider licensing systems as measures of general application subject to the right of the Agriculture Committee to review the applicability to the agricultural sector of any solutions evolved.