1. As it had been decided at the last meeting of the Committee on Trade in Industrial Products in January this year, Working Group 4 held a meeting from 26-28 March 1973, under the chairmanship of Mr. H. Colliander (Sweden), to examine quantitative restrictions, including embargoes and export restraints.

2. The documentation for the meeting consisted of the last report of Working Group 4 to the Committee on Trade in Industrial Products (COL.IND/W/49), a background note prepared by the secretariat on the subject of quantitative restrictions, including embargoes and export restraints (COL.IND/W/99) and the latest version of the Consolidated Table of Import Restrictions prepared in the framework of the Joint Working Group, (COL.IND/W/97/COL.AG/W/92).

3. The Group, according to its mandate to focus its attention on possible ad referendum solutions, reviewed a number of proposals made in the course of 1970 when it had held a discussion on quantitative restrictions and export restraints on an exploratory basis. The discussion in the Group brought out divergencies of views with regard to some important problems such as the legality issue, the treatment of export restraints and standstill provisions. These divergencies are reflected in the two possible solutions (drawn partly from pages 15-17 of I/3496) which were reviewed in the course of the meeting. The text of these two alternatives is attached in the Annex to this note. It was emphasized by several delegations that these texts, in addition to certain reservations expressed regarding specific provisions, were only tentative at this stage and were put forward as a basis for future discussion.

4. One difficulty in establishing a common text arose from the difference in the scope of the restrictions to be covered. Some delegations were in favour of eliminating illegal restrictions as soon as possible and at any rate before the beginning of the multilateral trade negotiations, while an overall plan for the elimination of quantitative restrictions which are inconsistent with the General Agreement but legal under waivers or protocols of accession should be the subject of negotiations in the multilateral trade negotiations. Other delegations, pointing out the difficulty of arriving at a commonly agreed definition of the legality or illegality of restrictions, which they said were in some cases merely a question of
historical accident, wanted to avoid any ambiguous attempt to make a distinction and favoured an overall gradual liberalization programme for all types of restrictions, whether they were consistent with the GATT or not. Those who favoured the first approach further pointed out that no compensation should be expected for the removal of illegal restrictions, which should be done on a unilateral basis. An attempt was made by one delegation to reconcile the two approaches by adding to the second alternative a provision whereby the problem of illegal restrictions would be dealt with separately in conformity with the provisions of the General Agreement. Another delegation proposed the immediate elimination of quantitative restrictions which were no longer justified by present circumstances, but other delegations pointed to the difficulty as to who would decide which restrictions were no longer justified.

5. Another question which arose from the discussion was whether the ad referendum solution should apply to both developed countries and developing countries, or to developed countries only. The first alternative for an overall approach is addressed to developed countries only whereas the second alternative includes both developed and developing countries. In this respect it was pointed out by some delegations that most restrictions maintained by developing countries were consistent with the GATT. As to illegal restrictions, some delegations wondered why developing countries should be required to remove illegal restrictions when developed countries had maintained such restrictions for over twenty years. Another delegation pointed out that in any event it would be up to each country participating in the multilateral trade negotiations to decide which of its legal quantitative restrictions would be subject to negotiations under the second alternative.

6. In both alternative solutions the special problems of developing countries were recognized. Both texts, therefore, contain a provision whereby in the implementation of the undertakings, effective priority shall be given to restrictions affecting exports of developing countries and to discriminatory restrictions, which in many cases applied to developing countries. It was stated by one delegation, however, that there were restrictions which affected developing countries' exports exclusively. Regarding discriminatory restrictions, some delegations stated that priority should be given to the removal of such restrictions. According to one of these delegations, the bilateral agreements between his country and a number of other countries contained provisions which offered more effective protection than quantitative restrictions which were still upheld against exports from his country.

7. A third issue was the treatment of export restraints in the context of solutions to quantitative restrictions. Some delegations maintained that export restraints were of the same character and had the same effects as quantitative restrictions which were forbidden by the General Agreement. Other delegations were of the opinion that export restraints had been imposed for various reasons, that they had never been defined by the CONTRACTING PARTIES and that no thorough examination of them had been made yet by the Working Group. Their status was thus
still unclear. These delegations, therefore, felt that it was not possible to
decide at this stage whether they should be treated on the same basis as
restrictions on imports, and there was a need for further discussion on this point
before the Group could agree on how to deal with them. In this connexion, one
delegation added that some aspects of export restraints and quantitative
restrictions could best be discussed in the context of safeguards and that a
proposal had been made in the Committee on Trade in Industrial Products to
establish a Working Group to deal with safeguards. Other delegations, however,
recalled that the Group was instructed by the Committee on Trade in Industrial
Products to conduct the examination of quantitative restrictions and export
restraints simultaneously and that therefore export restraints should be treated
in the same manner as quantitative restrictions in any ad referendum solution.

8. Another question which was discussed was whether there should be a provision
for a standstill on existing restrictions. Although it was contended by some
delegations that an agreement on an overall programme of liberalization of
restrictions might make standstill requirements unnecessary, many delegations
thought it appropriate to introduce the concept in the two alternatives in order
to ensure that no new restrictions be introduced. The Group finally proposed
a text which calls for a standstill to be observed concerning both new restrictions
and increases in the restrictive element of the existing restrictions unless they
were consistent with the GATT.

9. One delegation pointed out that the sector or commodity approach offered an
additional possibility, should agreement not be reached on other alternatives.
This same delegation pointed out that this solution need not be limited to
sensitive sectors.

10. The same delegation requested the inclusion in the ad referendum text of a
provision designed to safeguard access. After a revision of the original wording,
a text was proposed which is identical for both alternatives. (See paragraph 4
of Annex.)

11. The Group agreed to have the two alternatives, with a covering note by the
secretariat explaining the main issues, transmitted to the Committee on Trade in
Industrial Products and that further discussions might be warranted on these
matters.
ANNEX

POSSIBLE SOLUTIONS PROPOSED AT MEETING, 26-28 MARCH 1973

(a). An overall gradual liberalisation and elimination of quantitative restrictions (including embargoes and measures having embargo effects), as well as export restraints by developed countries, shall be undertaken in step with progress reached in the preparation and in the course of the multilateral trade negotiations. Each individual developed contracting party shall contribute according to the relative importance of its quantitative restrictions of all types.

(b) In implementing sub-paragraph (a), effective priority shall be given to:

(i) quantitative restrictions (including embargoes and measures having embargo effects), as well as export restraints affecting exports of developing countries;

(ii) discriminatory quantitative restrictions (including embargoes and measures having embargo effects), as well as export restraints.

1(a). Illegal quantitative restrictions (including embargoes and measures having embargo effects), \as well as illegal export restraints/ shall be removed before the beginning of the multilateral trade negotiations. Countries maintaining such restrictions after the beginning of the negotiations shall be required to:

(i) seek waivers of their GATT obligations, or

(ii) pay appropriate compensation. Countries obtaining waivers shall nevertheless be subject, as is customary, to the provisions of Article XXIII.

(b) An overall plan for the elimination of quantitative restrictions (including embargoes and measures having embargo effects) \as well as export restraints/ inconsistent with the General Agreement but legal under waivers or protocols of accession shall be the subject of negotiations in the multilateral trade negotiations.

(c) In implementing sub-paragraphs (a) and (b), effective priority shall be given to:

(i) quantitative restrictions (including embargoes and measures having embargo effects) \as well as export restraints/ affecting exports of developing countries;
2. Progressive quota increases and continued liberalization of trade in embargoed products shall be put into operation with regard to quantitative restrictions (including embargoes and measures having embargo effects) as well as export restraints.

3. In no event shall new quantitative restrictions (including embargoes and measures having embargo effects) inconsistent with the General Agreement be introduced, nor shall the restrictive element of existing quantitative restrictions (including embargoes and measures having embargo effects) be increased, unless the increase is consistent with the General Agreement.

4. Trade liberalization resulting from the implementation of the preceding paragraphs shall not be impaired or nullified by the introduction of other trade inhibiting measures.