

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Trade in Industrial Products

Working Group 4

## REPORT OF WORKING GROUP 4 ON NON-TARIFF BARRIERS

### Examination of Items in Part 4 of the Illustrative List (Specific Limitations on Trade)

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 4-8 May, 3 and 8 June, and 7-11 December 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. The Group noted that its task was, as in the case of other Groups, to seek possible solutions, and that it was well placed to concentrate on possibilities for reducing and removing restrictions since the Joint Working Group had recently reviewed most of the individual notifications in the Inventory. The fact that the Council will examine the question of procedures for keeping notifications of restrictions up to date and the provision of adequate surveillance of restrictions also facilitated concentration on reduction and removal of barriers.
4. 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 restrictions with respect to which developing countries indicated specific interest in the course of the meeting of that Group as well as the twenty-one items selected by the Group on Residual Restrictions for priority attention. At that meeting some delegations had suggested that the prompt removal, on a most-favoured-nation basis, of illegal restrictions which bore particularly on the trade of developing countries should receive the highest priority and that, where feasible, time-tables for the elimination or for the enlargement of legal quotas should be set, possibly in relation to the growth of the market, without full reciprocity being required. It was also suggested that when any legal quantitative restriction significantly affected both developing and developed countries' exports, special consideration should be given to its removal on a most-favoured-nation basis in the light of the interest of the developing countries themselves.

5. The Group noted a divergence of view as to the meaning and scope of certain essential concepts in the GATT, in particular the scope of the restrictions covered by Article XI, paragraph 1 and the scope of some of the exceptions to that Article, especially Articles XX and XXI. It was noted that the terms "legal" and "illegal" have been used variously to distinguish sometimes between measures which do or do not fall within substantive provisions of GATT on use of restrictions and on some occasions to distinguish what measures are subject to legal cover permitting deviation from GATT's rules.

6. Some delegations urged prompt and positive action to eliminate all import restrictions applied contrary to the GATT. These restrictions nullified or impaired the value of concessions that in some cases had been negotiated more than twenty years ago. In most cases, the original conditions justifying these restrictions no longer applied. Their continuance undermined the legal basis of the General Agreement. Furthermore these restrictions made it extremely difficult to resist protectionist pressures since pressure groups could cite existing violations of GATT. The following proposal was made by one delegation:

- (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.

This proposal received the support of some delegations.

7. 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.

8. 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.

Quantitative restrictions including embargoes<sup>1</sup>

9. All countries agreed in principle that quantitative restrictions should be eliminated.

10. The delegations which favoured the proposal outlined in paragraph 6, 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.

11. In considering possible solutions which might appropriately be adopted to relax and remove quantitative restrictions and to remove embargoes, the Group's debate focussed on the search for an overall solution in which countries would take action on the restrictions which they presently maintain. 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

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<sup>1</sup>One developing country whose trade is adversely affected by what it regards as an illegal embargo imposed by a developed contracting party expressed a reservation on the ground that the Working Group had not sufficiently dealt with the question of embargoes.

of restrictions of trade significance maintained by each, and taking into account possibilities of arriving at agreements on particular products or sectors. Such agreement 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, of 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 consultation with the CONTRACTING PARTIES at yearly intervals on the understanding that such restrictions remained subject to proceedings under Article XXIII.

12. 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.

13. 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 or 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.

14. 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.

15. 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.

Discriminatory bilateral agreements

16. Some countries maintained that discriminatory bilateral agreements were against the spirit and the letter of the General Agreement. 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. Since the General Agreement had no provisions dealing with 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 bilateral agreements should consult with the CONTRACTING PARTIES as those operating under Article XII or XVIII:B consult at present in the Balance-of-Payments Committee.

17. 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 systems, had stimulated export efforts and led to diversification of exports of the developing countries concerned. In some cases, they relate to the establishment of mutually beneficial co-operation in the industrial and other economic fields. It was therefore impractical to consider elimination of these bilateral agreements. These countries asked the notifying countries to take these facts into account. Some 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.

18. 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 maintained 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. Bilateral agreements with developed countries should, in his view, be eliminated. In his opinion these bilateral agreements could be abolished if most-favoured-nation treatment were granted completely to his country, which was a full contracting party to GATT.

19. Other countries pointed out that while quantitative restrictions could indeed, within a system of clearing arrangements, be used in a way as an instrument for negotiation, such a possibility no longer existed within a system of multilateral payments where the maintaining of agreements was not prompted by the desire to increase the bargaining position of the party concerned.

20. 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 some such agreements already being provided it would be necessary to avoid duplication arising from the first proposal in paragraph 16.

21. Since quotas allocated under bilateral agreements for the purpose mainly of protecting sensitive sectors of production could, in most cases, be administered only through quantitative restrictions or on the basis of export restraints bilateral agreements should, in the opinion of some countries, be dealt with in conjunction with quantitative restrictions.

#### Export restraints

22. It was agreed to change the title in the Illustrative List from "Voluntary Restraints" to "Export Restraints" since it was claimed by some countries that the notifying countries restrain their exports because of the threat of imposition of unilateral restrictive measures by importing countries.

23. Countries against which notifications were made stated that in their view export restraints were more favourable to exporting countries than alternative trade restrictive measures 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 imports were generally higher under these arrangements than under unilaterally imposed quotas. The regular consultations inherent in export restraint arrangements tended to speed up the process of liberalization as compared with the liberalization of import quotas. In some cases, the exporting countries had imposed export restraints of their own accord in order to maintain quality control or to regulate competition between their exporters.

24. In reply to the point regarding consultations, countries operating export restraints maintained that in their opinion the so-called consultations were not necessarily carried out on a mutually advantageous basis and often the suggested quotas were presented to exporting countries on a "take it or leave it" basis.

25. Some countries operating export restraints considered that, particularly since such restraints were applied on a discriminatory basis, they might in certain cases have more harmful aspects than quantitative restrictions applied on a global basis. There were also cases where residual quantitative restrictions instead of being eliminated were sought to be continued by converting them into export restraints.

26. It was proposed by many delegations, including the notifying countries, that the solutions suggested for the relaxation of quantitative import restrictions should apply also for export restraints, for they were of the same character and had the same effect 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 put forward in the Joint Working Group.



#### Minimum price regulations

27. The Illustrative List included the problem of minimum prices as a condition to importation. One affected country emphasized 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. Further, the same country claimed that the system of minimum prices was inconsistent with the provisions of the General Agreement and urged its abolition at the earliest opportunity.

28. The representative of the maintaining country explained that this was a measure chosen amongst several because it was the least detrimental to trade. It was the intention to reconsider the system and, in due course, if necessary the government of his country would establish direct contact with the notifying government.

29. 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

30. The debate of the Group on Licensing covered two issues: the extent to which and manner in which licensing operates as an import restriction and possible solutions to the barrier effects of licensing.

31. Some 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. These delegations considered that the OECD standard import procedure, developed in 1966 (see Annex 2), supported their view that licensing was a form of import restriction which should be eliminated, since that code was based on the principle that goods not subject to quantitative restriction should likewise not be subject to any licensing procedure.

32. Some other delegations were of the view that the requirement of licensing was in itself 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. They pointed out that the GECOD procedures specifically provided in paragraph 6 that in special cases, justified by the need to carry out certain controls which could not be made in a more appropriate way, a system of automatic licences or of import certificates might be applied. In such cases the licences, visas or other equivalent documents should be issued upon request and within a maximum of five days from the deposit of the request. These provisions confirmed their view that automatic licensing was a legitimate formality permitting the attainment of various special objectives such as obtaining very expeditiously needed statistical data not otherwise available or facilitating collection of taxes or levies. Where such licences were granted without delay and sometimes in circumstances giving the administration no discretion to refuse, the requirements did not in their view constitute a restriction or barrier.

33. Countries which regarded licensing per se as a barrier to trade could not accept that licensing was necessary or desirable to accomplish such objectives and considered that other methods not harmful to trade could be found. 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 in the belief that governments tended to restrict imports through licensing. Moreover, it was noted that in many countries licensing systems applied only to selected types of imported products, so that licensing could not be justified on statistical grounds.

Possible solutions with regard to licensing

34. Those delegations which regard licensing per se as an import restriction proposed, at the outset, that licensing requirements be eliminated by 1 January 1974 except where required to implement import restrictions consistent with GATT.

35. Most countries considered that a licensing requirement in itself could not be said in all cases to constitute a barrier. The following criteria received wide support for defining licensing requirements not justified by reference to a provision of GATT but acceptable as non-restrictive:

- (1) the arrangement 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.

It was agreed that these suggestions merited further study.

36. Upon reflection the countries which had taken the stricter view of licensing considered that they could agree to these criteria for definition of licences which would be regarded as non-restrictive. However, they believed there was a need for a review of the systems of licensing actually in use among contracting parties. Such a review would begin with a questionnaire and replies by governments describing the working of licensing systems actually in use, time lapses and formalities involved, and the objectives sought to be obtained through licensing procedures. (An illustrative questionnaire is attached as Annex 1.) If some licensing systems were found by the maintaining countries, in the process of replying to the questionnaire, to have outlived their usefulness, this would be a first benefit from the examination. After notifications of licensing systems had been made to the secretariat an appropriate GATT body would review the notified procedures and make recommendations for their elimination or modification.

37. The proposed review was supported by a majority of delegations. Some qualified their support by doubt as to whether an inquiry need go beyond the so-called "automatic" licensing systems, since there had been wide agreement that restrictive licensing should in any event be treated within whatever overall solution was adopted for dealing with quantitative restrictions, and since a broader review might well become a very considerable undertaking of long duration. Other delegations supporting the proposal felt that the breadth of the examination would be an advantage, especially to developing countries, since restrictions are often aggravated by the way in which licensing procedures operate, and the methods of operation were little known and difficult to ascertain. It was suggested that the term "licensing" should be broadly interpreted to include technical visa requirements, surveillance systems, minimum price arrangements, and possibly exchange requirements, all of which involved administrative review of proposed imports as a condition to entry. Some considered that the factual examination would be most useful whilst reserving their view on what should be done with the results.

38. Some countries considered that the range of inquiry proposed would require highly differentiated replies, since a given country might have régimes of different kinds applicable to different categories of case. These countries also felt that the proposed questionnaire required further study before a position could be taken upon it, and in this connexion they considered that the work done by the OECD some years ago should first be examined to see whether there were reasonable prospects of improving upon it. In this regard, the representative of the OECD, upon invitation, indicated that the standard procedure reproduced in an annex to this report represented the end result of work undertaken in 1962. A detailed questionnaire had been circulated on procedures for according licences and quantitative restrictions along the lines of the questions proposed by the United States draft questionnaire. It had originally been envisaged to revise and update replies to the questionnaires but this had not been done, doubtless because of the pressure of other work.

39. The country proposing this approach agreed that OECD work should be taken into account, but noted that the questionnaire sent out in that connexion in 1962 had of course not gone to the many GATT contracting parties not members of OECD. In its

view a new GATT questionnaire could be answered within three months. It defended the broad scope of the proposed review on the ground that there would be many differences of view as to what was and what was not automatic, not to mention the advantage to developing countries, connected with their difficulties in making use of the trade possibilities open to them, because of intricate licensing requirements.

40. One member of the Group, supporting the proposal, noted in particular that licensing lent itself to use as a disguised barrier to trade, since it was easy to slow the processing of certain applications for licences, to curb imports from particular sources by hints to importers, or to restrict imports at prices which might be considered undesirably low.

41. Other proposals for dealing with the subject of licensing, which might be envisaged either concurrently with the questionnaire and review described above or as possible later stages, dealt with the possibility of elaborating codes designed to reduce the barriers resulting from licensing. One suggestion was that the CONTRACTING PARTIES might consider adoption of a code along the lines of Articles 7 to 14 of the OECD standard procedure, the text of which is reproduced as Annex 2. One delegation felt that special attention should be given in any code to reducing complex licensing requirements which often frustrated limited trading opportunities open to developing countries, as suggested in Annex 3 to this report.

42. Most delegations considered that, whatever was done regarding licensing as an adjunct to permitted quantitative restrictions, restrictive licensing should in any event be included in a general programme for removal of quantitative restrictions.

#### Motion picture restrictions

43. 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.

44. Most of the countries against which notifications had been made underlined the special character of motion pictures, which represented a medium of information and dissemination of culture to which governments attached great importance. In their view, the measures notified were designed not to limit trade, but to permit the maintenance and development of an activity which in general encountered economic, structural and trade difficulties, due in particular to the disproportions existing between the film industry of different countries.

45. The notifying countries regarded 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. 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.

46. Some countries suggested that 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.

47. Other countries pointed out that screen-time quotas were designed to ensure a certain minimum distribution and showing of domestic films, and not to prevent the showing of foreign films, which in general filled a large part of overall screen time. In addition, the measure seemed essential in order to avoid oligopolistic practices which might result from increasing concentration in the distribution sector.

48. One delegation pointed out that the practice of setting screen-time quotas for recorded television programmes contravened Article III, paragraphs 5 and 7, which prohibit the use of "mixing regulations". Other delegations referring to paragraph 10 of Article III expressed the view that Article IV, in their interpretation, was also applicable to television quotas.

49. 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 of the Industrial Committee for domestic aids:

- (a) All contracting parties should notify their subsidies 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 cases where subsidies are determined to be causing or threatening serious prejudice to the interests of other contracting parties in accordance with Article XXIII or, if no satisfactory solution were found, as provided for in Article XXIII.

The Group agreed that there should be a notification procedure in accordance with Article XVI.

50. 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.

Some of the criteria received the support of some delegations.

51. A large number of delegations were not in favour of listing criteria on the question of motion pictures. Furthermore, they expressed doubts concerning the trade effects of aids at present granted to national film industries. They underlined that in certain cases aids could be beneficial to foreign films, in particular aids to cinemas and to film co-productions. In addition, some of them pointed out that they did not grant any export subsidies.

52. It was noted that the OECD was also addressing itself to the question of films for both cinema and television and that an expert group had prepared a series of proposals concerning changes to the code of liberalization of current invisible transactions. Some delegations preferred to await further progress on the work in OECD before deciding on any criteria with respect to film subsidies.

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

Annex 1

DRAFT QUESTIONNAIRE ON IMPORT LICENSING

1. Conditions for eligibility to apply for a licence.
2. Information required in applying for a licence (origin, supplier, quantity, price and terms of sale); documentation, if any, required with application.
3. Description of different procedures applied for different groups of products.
4. Trade or administrative bodies, other than those which actually issue licences, to which licences may be referred.
5. How far in advance of importation application must be made.
6. Maximum and minimum amount of time which elapses between receipt of application and issuance of licence.
7. Period of validity of licence and means by which licence may be extended.
8. Administrative procedures, other than licensing, required prior to importation.
9. Purposes served by licensing of liberalized imports; reasons these purposes cannot be achieved by other means.
10. Reasons for denial (if ever) of applications for licences to import liberalized goods.
11. Correspondence of licensing practices for imports not subject to quantitative restrictions to criteria set forth in paragraph 35 of the Working Group 4 report.

Annex 2

OECD STANDARD PROCEDURE FOR IMPORT OF GOODS  
TRADED ON PRIVATE ACCOUNT

A. General provisions

1. The present procedure applies to all imports other than those carried out by State-trading enterprises, monopolies and other government enterprises or departments, as specified in Article XVII of the GATT. It does not affect measures which may be taken in conformity with Articles XX and XXI of the GATT, or the provisions relating to quality standards, or marking regulations which importers may have to comply with under national procedures.
2. To be entitled to import, persons, firms or other bodies should not be tied to any conditions other than those which apply generally to the trade in the products in question in the country of importation: these conditions, however, should not be required of persons who import goods for their own use.
3. In the case of goods not subject to quantitative restrictions, the foreign exchange necessary for the payment of imports should be made automatically available to importers. In the case of merchandise imported under quota, the foreign exchange needed for the payment of imports should be made available to the importer on presentation of the licence or the document authorizing the import, without further formality.
4. In cases where the importing country deems necessary to be informed of the origin of the merchandise, a note of the origin on the invoice or customs declaration, or where appropriate on the import declaration, and if necessary on the application for a licence, should be considered as adequate. There should be no further systematic verification of origin, but in cases of doubt the competent authorities should accept certificates of origin made out by chambers of commerce or other organizations previously approved by the government concerned, while maintaining the right to verify the validity and accuracy of such certificates.
5. The importers should not be required to provide any other documents than the customs declaration, accompanied by a bill of lading or carriers certificate, and the invoice, together, where appropriate, with an import declaration approved by the responsible authorities. Moreover, for imports subject to licence, the production of the licence may be required. The provisions of this paragraph would not affect the power of customs authorities to proceed to supplementary verifications in cases where it is necessary to do so.



B. Products not subject to quantitative restrictions

6. No licence or any other document or formality of the same character should be required for the importation of goods which are not subject to quantitative restrictions. However, in special cases, justified by the need to carry out certain controls which could not be made in a more appropriate way, a system of automatic licences or of import certificates may be applied. In such cases, the licences, visas or other equivalent documents should be issued upon request and within a maximum of five days from the deposit of the request.

C. Products imported under global, bilateral or unilateral quotas

7. All useful information concerning quotas and formalities of filing applications for licences should be brought to the attention of possible importers in good time, notably by notices in official or private press organs (general or specialized) or by communications to trade associations concerned.

8. Importers should be given at least fifteen days in which to apply for an import licence in the case of standard commercial articles, and at least one month in the case of non-standard commercial articles. A shorter period may, however, be prescribed in special cases.

9. Applications for licences should be made on a simple and standard form to the licensing authority. Normally a single authority should be responsible in each country, but in the case of certain categories of products, these functions may also be assigned to separate authorities for the purpose of securing a more rational administration of quotas, taking account of needs of both the authorities and the importers.

10. The licensing authority may seek the advice of other government departments or technical and trade bodies regarding allocations. Where it decides to consult national economic interests for this purpose it should not limit itself to consulting trade associations of producers.

11. The authorities of the importing countries should take the necessary steps, when allocating quotas, to ensure that licences can be issued and importation effected within the periods prescribed for this purpose and to facilitate the full utilization of the quotas. Furthermore, where the size of quotas permits new importers should have the right to request a fair share of quotas.

12. If applications are examined simultaneously, not more than three weeks should lapse between the closing date for applications and the issue or refusal of the licence. If applications are examined on receipt, not more than three weeks should elapse between the receipt of the applications and the issue or refusal of the licence.

13. Licences should be valid for at least three months from their date of issue. However, a longer period of validity should be accorded when the distance of transport and communications makes this a legitimate requirement. Licences should also be easily renewable. Validity may nonetheless be for a shorter, but reasonable, period in special cases.

14. All applicants should have the right to appeal against a refusal to issue a licence, under national legislation and/or procedure of the importing country.

Annex 3

SUGGESTION PRESENTED BY ONE DELEGATION  
REFERRED TO IN PARAGRAPH 41 FOR  
IMPROVEMENT IN PROCEDURES FOR LICENSING

Licensing procedures should provide for the following:

1. Bilateral quotas

- (a) Imports under bilateral quotas should be allotted without import licences, on the basis of export permits to be issued by the exporting countries.
- (b) In exceptional cases where issue of import licences was considered necessary by the importing countries, these should be issued automatically on production of export permits.

2. Global quotas

- (a) Quotas should not be fragmented in small quantities and allotted to a number of parties, as this makes imports uneconomical.
- (b) The practice of allotting import licences for certain goods only to domestic producers of like goods should be discontinued and licences should be issued to all persons interested in importing.
- (c) The practice of issuing licences on condition that goods should be exported and not sold in domestic market should be discontinued.
- (d) The period of validity of the licences should not be short and should be fixed in the case of countries situated at a distance, taking into account distances of transport and difficulties of communication.
- (e) Notices for allocation of quotas should be given due publicity in official and private press organs and brought to the attention of the trade associations as well as of the governments of exporting countries, particularly of their trade representatives.
- (f) Trade representatives or export promotion bodies of the exporting countries should be kept informed about licences issued and the names of the importers to whom licences were issued.