

WORLD TRADE ORGANIZATION

RESTRICTED

G/NOP/5

20 March 1996

(96-1003)

Working Group on Notification Obligations and Procedures

MEETING HELD ON 11 MARCH 1996

Chairman: Mr. A. Shoyer (United States)

Note by the Secretariat

1. The draft agenda for the fifth meeting of the Working Group, set out in WTO/AIR/278, of 26 February 1996, was adopted.

Agenda Item 2(a) Duplication/Overlapping in Notification Obligations

(i) Agreement on Agriculture/Agreement on Import Licensing Procedures

2. By way of introduction, the Chairman recalled that, pursuant to Article 7.3 of the Agreement on Import Licensing Procedures, Members were required to submit an annual questionnaire to the Committee on Import Licensing Procedures by 30 September each year. This questionnaire called on Members to provide a description of their import licensing system, its purposes, coverage and procedures and all related conditions and documentation. Changes to a Member's system made in the interim are to be reported on an ad hoc basis. Under the Agreement on Agriculture, it was possible for a Member to establish a licensing system as a part of a tariff or other quota allocation programme. Full notification of any such quota administration system had been required on a "one-off" basis in 1995 with any substantial changes in these systems being notified ad hoc. The specific informational requirements for such a system are summarized in document G/AG/2, in the sample format on page 3.

3. In the Group's discussion of this item, it was observed that some elements of duplication did exist between these two Agreements; however, the notification obligations were different both in terms of the information required and the timing for its submission. In these circumstances, the view was advanced that there appeared to be no compelling reason to work towards the combining of these two obligations, while arguments did exist for keeping them separate. A number of delegates supported this view. Reference was also made to the substantive question if agriculture tariff rate quota systems needed to be included in general notifications to the Committee on Import Licensing Procedures. One view was that since the import licensing questionnaire was all-inclusive, all licensing schemes, no matter what their source, needed to be included in the notifications to that Committee. There were no provisions in either Agreement for such an exclusion. Another view was that under tariff rate quotas, where the importer was free to make out-of-quota imports, the quota allocation was not a prior condition for imports and was not covered by the Agreement on Import Licensing Procedures. On this latter basis, there would be no overlapping between the two Agreements.

4. At the conclusion of the discussion of this item, the Chairman pointed out that this subject would be further considered at the Group's meeting in May. He invited Members to give further considerations to the points raised and, to advance the discussion, any Member which could identify examples of a burden or difficulty in meeting their obligations resulting from the overlapping in these two Agreements should bring them forward for discussion at that time. He noted that some delegations

had addressed substantive questions of coverage in their interventions, and suggested that the Group might focus its attention on the question of notification procedures.

(ii) Agreement on the Application of Sanitary and Phytosanitary Measures/Agreement on Technical Barriers to Trade

5. Setting the scene for the discussion of this item, the Chairman commented that the subject matter and operation of these two Agreements were clearly intended to be kept separate. Article 1.5 of the TBT Agreement stated that the provisions of that Agreement did not apply to sanitary and phytosanitary measures as defined in Annex A of the SPS Agreement. Nevertheless, these two Agreements had similarities in that their respective notification provisions were almost identical and the notification obligations for both referred to changes in existing regulations or newly established ones. They had a basically similar, one-page format and even their subject matters could be closely related.

6. He noted that the potential for overlap between the requirements of the TBT and SPS Agreements had long been recognized and last November a joint meeting of the two committees had been held to examine notification questions (G/TBT/W/16 and G/SPS/W/32 and W/33). To deal with instances where a notification contained elements relevant to both TBT and SPS, two suggestions had been advanced at that joint meeting; one, a Member could submit a single notification to the Secretariat to be circulated as both an SPS and TBT document but clearly indicating the respective SPS and TBT elements of the proposed regulation. Alternatively, Members could separate the subject matter into individual notifications for SPS and TBT each containing only the relevant information.

7. The Group's discussion indicated that the problem encountered in respect of these two Agreements was more in the nature of a confusion as to which Agreement should be invoked in making the notification, that is, was the matter being notified a subject appropriate to the SPS or TBT? It was not considered to be a question of duplication. Some delegates felt the problem was being resolved over time as Members became more familiar with the operation of the two Agreements. Also, the two Committees were aware of the problem and had been jointly working to resolve it.

(iii) Agreement on Agriculture/Agreement on Subsidies and Countervailing Measures

8. The Chairman recalled that at the last meeting papers had been provided by New Zealand and the United States and these had subsequently been circulated as G/NOP/W/7 and W/8. He commented that the three options in the New Zealand paper had aroused a very interesting, though preliminary, exchange of views which had been summarized in the Secretariat Note on that meeting (G/NOP/4). He also recalled that, in addition to the options in the New Zealand paper, a further approach had been suggested of modifying the obligations in the two Agreements, particularly if the other suggested options were found to be insufficient to deal with the situation.

9. Some delegations reiterated their view that there was some overlap in the information requirements of these two Agreements which would warrant efforts to streamline the formats; a single format could be examined on the basis of options 2 or 3 of the New Zealand paper (G/NOP/W/7). One result of eliminating duplication would be to encourage broader fulfilment of these notification requirements by all Members. Some delegates suggested that this discussion could move forward more easily if those Members seeking to rationalize or improve the current system were to provide detailed proposals citing the area of overlap and the improvements to be made.

10. Reference was made to the proposal in the United States paper (G/NOP/W/8), item 1, fourth indent, that consideration should be given to the elimination of the requirement to provide certain details such as information on trade effects of a subsidy as this had hardly ever been provided. With respect to this proposal, the view was expressed that the Group should not seek to alter the existing notification

obligations as they had been negotiated in the Uruguay Round and formed essential parts of the respective Agreements. Rather, the goal of the Group should be to find means to improve compliance with the obligations as set out in these Agreements. It was also stressed that care must be taken to ensure that efforts to arrive at a common format in this area would not have the effect of exempting certain products or subsidies from notification.

Agenda Item B - Assistance to Some Developing Countries in Meeting their Notification Obligations

11. The Chairman recalled that this agenda item had originated with the specific provision in the Ministerial Decision that the Group was to carry out its review "bearing in mind the possible need of some developing country Members for assistance in meeting their notification obligations." He recalled that in past discussions, it had been recognized that technical assistance by the WTO Secretariat was very important in this area both for the Missions of developing countries in Geneva and for the officials in capitals. In this regard the Group had heard a presentation in November about the assistance programmes which had been developed by the WTO Technical Cooperation and Training Division in this area including their Notifications Workshops in May 1995 and again in February 1996.

12. As to the possible recommendations that this Group could make under this agenda item, he noted that a number of broad suggestions had been made which might ultimately be developed further. These included simplified formats, prolonged time-frames for certain developing countries and the development of detailed guidelines for the preparation of questionnaires possibly using computer programmes.

13. A number of delegates considered the technical cooperation programmes of the WTO to be a sound vehicle to assist developing countries in meeting their notification obligations. Particular reference was made to the two notification workshops held in Geneva and seminars on this topic held in some regions. It was suggested that these should be followed up and broadened to maintain the progress achieved so far. As regards the suggestions that the Group should examine simplified formats or prolonged time-frames for developing countries, some delegates did not favour such methods. It was considered that the information in the agreed formats reflected the obligations which Members had undertaken and were vital to maintain full transparency. A reduction in obligations for some Members was not acceptable, although it was noted that several agreements already included special considerations for developing or least-developed country Members, particularly as regards time-frames for the application of substantive obligations.

14. One suggestion advanced for consideration by the Group was that developed countries provide direct assistance to developing countries by exchange visits of officials from the LDCs with the developed countries to instruct them in the preparation of notification obligations. Another proposal was that a handbook or manual should be developed setting out the notification obligations, questionnaires or formats and guiding the Members through the information required to complete the submissions. This might also be prepared in an electronic format.

Agenda Item C - The Question of Compliance with Notification Obligations

15. The Chairman recalled that the question of compliance with notification obligations had been mentioned last year, though it had never been developed into a full agenda topic. There was reference in the Ministerial Decision to the need to improve compliance with the notification obligations. With this in mind, the Chairman had suggested to the Secretariat that it might be helpful to have at least a basic document setting out the current situation as regards the submissions of notifications. This was before the Group today in document G/NOP/W/9.

16. The Chairman observed that the topic of compliance aroused several questions: is there a link between the volume of notifications to be made by Members and the degree of compliance; does the complexity of the questionnaires/formats reflect on compliance rates; could the timing of notifications affect compliance; and can we identify specific obligations that attract a low or for that matter a high compliance rate? He suggested, however, that the first question was how the Group should approach this aspect of its work.

17. Some delegations provided initial comments on this topic and on the paper but, in view of the complexity of the question of compliance with notification obligations, it was accepted that the matter would be carried over to the Group's next meeting for a more thorough examination.

General Information

18. The Chairman noted for the information of delegates that later in the month of March the Central Registry of Notifications would be sending two reminders to Members: one drawing the attention of the Member to their regular notification requirements which remained unfulfilled, and a second informing each Member of the regular notification obligations which that Member would be expected to respond to in the course of 1996. Both of these were being sent pursuant to the specific instructions in Part II of the Ministerial Decision.

Future Meetings

19. The Chairman pointed out that the next meeting of the Group was scheduled for Friday 12 April¹ in the morning. In addition to the dates mentioned at the last meeting, i.e. 8 March, 12 April, 3 May, 6 June, 3 July and 10 September, he had added a meeting on 3 October which would hopefully be the occasion for finalizing and approving the report to the CTG.

¹This meeting has since been rescheduled to Monday 15 April in the afternoon.